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# NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

*UNITED STATES OF AMERICA v. CARL KRAUCH ET AL. (CASE VI)*

AUGUST 14, 1947-JULY 30, 1948

Roll 96

Other Items

Prosecution Final Brief, Part VI  
(English)

Prosecution Final Brief, Parts I-V  
(German)



THE NATIONAL ARCHIVES  
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GENERAL SERVICES ADMINISTRATION

WASHINGTON: 1976



## INTRODUCTION

On the 113 rolls of this microfilm publication are reproduced the records of Case VI, *United States of America v. Carl Krauch et al.* (I. G. Farben Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs and statements, and defendants' final pleas as well as prosecution and defense exhibits and document books in one language or the other. Also included are minute books, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 43 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Prosecution statements and briefs are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. Unbound prosecution exhibits, numbered 1-2270 and 2300-2354, are essentially those documents from various Nuernberg record series, particularly the NI (Nuernberg Industrialist) Series, and other sources offered in evidence by the prosecution in this case. Defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically, along with two groups of exhibits submitted in the general interest of all defendants. Both prosecution and defense document books consist of full or partial translations of exhibits into English. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

Minute books, in two bound volumes, summarize the transcripts. The official court file, in nine bound volumes, includes the progress docket, the indictment, and amended indictment and the service thereof; applications for and appointments of defense counsel and defense witnesses and prosecution comments thereto; defendants' application for documents; motions and reports; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Defendants' clemency petitions, in three bound volumes, were directed to the military governor, the Judge Advocate General, and the U.S. District Court for the District of Columbia. The finding aids summarize transcripts, exhibits, and the official court file.

Case VI was heard by U.S. Military Tribunal VI from August 14, 1947, to July 30, 1948. Along with records of other Nuernberg

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and Far East war crimes trials, the records of this case are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The I. G. Farben Case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weissaecker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943; Executive Order 9547 of May 2, 1945; the London Agreement of August 8, 1945; the Berlin Protocol of October 6, 1945; and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. Procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.



Formation of the I. G. Farben Combine was a stage in the evolution of the German chemical industry, which for many years led the world in the development, production, and marketing of organic dyestuffs, pharmaceuticals, and synthetic chemicals. To control the excesses of competition, six of the largest chemical firms, including the Badische Anilin & Soda Fabrik, combined to form the Interessengemeinschaft (Combine of Interests, or Trust) of the German Dyestuffs Industry in 1904 and agreed to pool technological and financial resources and markets. The two remaining chemical firms of note entered the combine in 1916. In 1925 the Badische Anilin & Soda Fabrik, largest of the firms and already the majority shareholder in two of the other seven companies, led in reorganizing the industry to meet the changed circumstances of competition in the post-World War markets by changing its name to the I. G. Farbenindustrie Aktiengesellschaft, moving its home office from Ludwigshafen to Frankfurt, and merging with the remaining five firms.

Farben maintained its influence over both the domestic and foreign markets for chemical products. In the first instance the German explosives industry, dependent on Farben for synthetically produced nitrates, soon became subsidiaries of Farben. Of particular interest to the prosecution in this case were the various agreements Farben made with American companies for the exchange of information and patents and the licensing of chemical discoveries for foreign production. Among the trading companies organized to facilitate these agreements was the General Anilin and Film Corp., which specialized in photographic processes. The prosecution charged that Farben used these connections to retard the "Arsenal of Democracy" by passing on information received to the German Government and providing nothing in return, contrary to the spirit and letter of the agreements.

Farben was governed by an Aufsichtsrat (Supervisory Board of Directors) and a Vorstand (Managing Board of Directors). The Aufsichtsrat, responsible for the general direction of the firm, was chaired by defendant Krauch from 1940. The Vorstand actually controlled the day-to-day business and operations of Farben. Defendant Schmitz became chairman of the Vorstand in 1935, and 18 of the other 22 original defendants were members of the Vorstand and its component committees.

Transcripts of the I. G. Farben Case include the indictment of the following 24 persons:

Otto Ambros: Member of the Vorstand of Farben; Chief of Chemical Warfare Committee of the Ministry of Armaments and War Production; production chief for Buna and poison gas; manager of Auschwitz, Schkopau, Ludwigshafen, Oppau, Gendorf, Dyhernfurth, and Falkenhagen plants; and Wehrwirtschaftsfuehrer.

## NATIONAL ARCHIVES MICROFILM PUBLICATIONS

Max Brueggemann: Member and Secretary of the Vorstand of Farben; member of the legal committee; Deputy Plant Leader of the Leverkusen Plant; Deputy Chief of the Sales Combine for Pharmaceuticals; and director of the legal, patent, and personnel departments of the Works Combine, Lower Rhine.

Ernst Buerger: Member of the Vorstand of Farben; Chief of Works Combine, Central Germany; Plant Leader at the Bitterfeld and Wolfen-Farben plants; and production chief for light metals, dyestuffs, organic intermediates, plastics, and nitrogen at these plants.

Heinrich Bueteffisch: Member of the Vorstand of Farben; manager of Leuna plants; production chief for gasoline, methanol, and chlorine electrolysis production at Auschwitz and Moosbierbaum; Wehrwirtschaftsfuehrer; member of the Himmler Freundeskreis (circle of friends of Himmler); and SS Obersturmbannfuehrer (Lieutenant Colonel).

Walter Duerrfeld: Director and construction manager of the Auschwitz plant of Farben, director and construction manager of the Monowitz Concentration Camp, and Chief Engineer at the Leuna plant.

Fritz Gajewski: Member of the Central Committee of the Vorstand of Farben, Chief of Sparte III (Division III) in charge of production of photographic materials and artificial fibers, manager of "Agfa" plants, and Wehrwirtschaftsfuehrer.

Heinrich Gattineau: Chief of the Political-Economic Policy Department, "WIPO," of Farben's Berlin N.W. 7 office; member of Southeast Europe Committee; and director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia.

Paul Haeffliger: Member of the Vorstand of Farben; member of the Commercial Committee; and Chief, Metals Departments, Sales Combine for Chemicals.

Erich von der Heyde: Member of the Political-Economic Policy Department of Farben's Berlin N.W. 7 office, Deputy to the Chief of Intelligence Agents, SS Hauptsturmfuehrer, and member of the WI-RUE-AMT (Military Economics and Armaments Office) of the Oberkommando der Wehrmacht (OKW) (High Command of the Armed Forces).

Heinrich Hoerlein: Member of the Central Committee of the Vorstand of Farben; chief of chemical research and development of vaccines, sera, pharmaceuticals, and poison gas; and manager of the Elberfeld Plant.



Max Ilgner: Member of the Vorstand of Farben; Chief of Farben's Berlin N.W. 7 office directing intelligence, espionage, and propaganda activities; member of the Commercial Committee; and Wehrwirtschaftsfuehrer.

Friedrich Jaehne: Member of the Vorstand of Farben; chief engineer in charge of construction and physical plant development; Chairman of the Engineering Committee; and Deputy Chief, Works Combine, Main Valley.

August von Knieriem: Member of the Central Committee of the Vorstand of Farben; Chief Counsel of Farben; and Chairman, Legal and Patent Committees.

Carl Krauch: Chairman of the Aufsichtsrat of Farben and Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (General Plenipotentiary for Special Questions of Chemical Production) on Goering's staff in the Office of the 4-Year Plan.

Hans Kuehne: Member of the Vorstand of Farben; Chief of the Works Combine, Lower Rhine; Plant Leader at Leverkusen, Elberfeld, Uerdingen, and Dormagen plants; production chief for inorganics, organic intermediates, dyestuffs, and pharmaceuticals at these plants; and Chief of the Inorganics Committee.

Hans Kugler: Member of the Commercial Committee of Farben; Chief of the Sales Department Dyestuffs for Hungary, Rumania, Yugoslavia, Greece, Bulgaria, Turkey, Czechoslovakia, and Austria; and Public Commissar for the Falkenau and Aussig plants in Czechoslovakia.

Carl Lautenschlaeger: Member of the Vorstand of Farben; Chief of Works Combine, Main Valley; Plant Leader at the Hoechst, Griesheim, Mainkur, Gersthofen, Offenbach, Eystrup, Marburg, and Neuhausen plants; and production chief for nitrogen, inorganics, organic intermediates, solvents and plastics, dyestuffs, and pharmaceuticals at these plants.

Wilhelm Mann: Member of the Vorstand of Farben, member of the Commercial Committee, Chief of the Sales Combine for Pharmaceuticals, and member of the SA.

Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.



## NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.

Heinrich Oster: Member of the Vorstand of Farben, member of the Commercial Committee, and manager of the Nitrogen Syndicate.

Hermann Schmitz: Chairman of the Vorstand of Farben, member of the Reichstag, and Director of the Bank of International Settlements.

Christian Schneider: Member of the Central Committee of the Vorstand of Farben; Chief of Sparte I in charge of production of nitrogen, gasoline, diesel and lubricating oils, methanol, and organic chemicals; Chief of Central Personnel Department, directing the treatment of labor at Farben plants; Wehrwirtschaftsfuehrer; Hauptabwehrbeauftragter (Chief of Intelligence Agents); Hauptbetriebsfuehrer (Chief of Plant Leaders); and supporting member of the Schutzstaffeln (SS) of the NSDAP.

Georg von Schnitzler: Member of the Central Committee of the Vorstand of Farben, Chief of the Commercial Committee of the Vorstand that planned and directed Farben's domestic and foreign sales and commercial activities, Wehrwirtschaftsfuehrer (Military Economy Leader), and Hauptsturmfuehrer (Captain) in the Sturmabteilungen (SA) of the Nazi Party (NSDAP).

Carl Wurster: Member of the Vorstand of Farben; Chief of the Works Combine, Upper Rhine; Plant Leader at Ludwigshafen and Oppau plants; production chief for inorganic chemicals; and Wehrwirtschaftsfuehrer.

The prosecution charged these 24 individual staff members of the firm with various crimes, including the planning of aggressive war through an alliance with the Nazi Party and synchronization of Farben's activities with the military planning of the German High Command by participation in the preparation of the 4-Year Plan, directing German economic mobilization for war, and aiding in equipping the Nazi military machines.<sup>1</sup> The defendants also were charged with carrying out espionage and intelligence activities in foreign countries and profiting from these activities. They participated in plunder and spoliation of Austria, Czechoslovakia, Poland, Norway, France, and the Soviet Union as part of a systematic economic exploitation of these countries. The prosecution also charged mass murder and the enslavement of many thousands of persons particularly in Farben plants at the Auschwitz and Monowitz concentration camps and the use of poison gas manufactured by the firm in the extermination

<sup>1</sup> The trial of defendant Brueggemann was discontinued early during the proceedings because he was unable to stand trial on account of ill health.



of millions of men, women, and children. Medical experiments were conducted by Farben on enslaved persons without their consent to test the effects of deadly gases, vaccines, and related products. The defendants were charged, furthermore, with a common plan and conspiracy to commit crimes against the peace, war crimes, and crimes against humanity. Three defendants were accused of membership in a criminal organization, the SS. All of these charges were set forth in an indictment consisting of five counts.

The defense objected to the charges by claiming that regulations were so stringent and far reaching in Nazi Germany that private individuals had to cooperate or face punishment, including death. The defense claimed further that many of the individual documents produced by the prosecution were originally intended as "window dressing" or "howling with the wolves" in order to avoid such punishment.

The tribunal agreed with the defense in its judgment that none of the defendants were guilty of Count I, planning, preparation, initiation, and waging wars of aggression; or Count V, common plans and conspiracy to commit crimes against the peace and humanity and war crimes.

The tribunal also dismissed particulars of Count II concerning plunder and exploitation against Austria and Czechoslovakia. Eight defendants (Schmitz, von Schnitzler, ter Meer, Buergin, Haeffliger, Ilgner, Oster, and Kugler) were found guilty on the remainder of Count II, while 15 were acquitted. On Count III (slavery and mass murder), Ambros, Bueteftisch, Duerrfeld, Krauch, and ter Meer were judged guilty. Schneider, Bueteftisch, and von der Heyde also were charged with Count IV, membership in a criminal organization, but were acquitted.

The tribunal acquitted Gajewski, Gattineau, von der Heyde, Hoerlein, von Knieriem, Kuehne, Lautenschlaeger, Mann, Schneider, and Wurster. The remaining 13 defendants were given prison terms as follows:

<u>Name</u>	<u>Length of Prison Term (years)</u>
Ambros	8
Buergin	2
Bueteftisch	6
Duerrfeld	8
Haeffliger	2
Ilgner	3
Jaehne	1 1/2
Krauch	6
Kugler	1 1/2
Oster	2
Schmitz	4
von Schnitzler	5
ter Meer	7

All defendants were credited with time already spent in custody.

In addition to the indictments, judgments, and sentences, the transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty) and opening statements of both defense and prosecution.

The English-language transcript volumes are arranged numerically, 1-43, and the pagination is continuous, 1-15834 (page 4710 is followed by pages 4710(1)-4710(285)). The German-language transcript volumes are numbered 1a-43a and paginated 1-16224 (14a and 15a are in one volume). The letters at the top of each page indicate morning, afternoon, or evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Two commission hearings are included in the transcripts: that for February 7, 1948, is on pages 6957-6979 of volume 20 in the English-language transcript, while that for May 7, 1948, is on pages 14775a-14776 of volume 40a in the German-language transcript. In addition, the prosecution made one motion of its own and, with the defense, six joint motions to correct the English-language transcripts. Lists of the types of errors, their location, and the prescribed corrections are in several volumes of the transcripts as follows:

- First Motion of the Prosecution, volume 1
- First Joint Motion, volume 3
- Second Joint Motion, volume 14
- Third Joint Motion, volume 24
- Fourth Joint Motion, volume 29
- Fifth Joint Motion, volume 34
- Sixth Joint Motion, volume 40

The prosecution offered 2,325 prosecution exhibits numbered 1-2270 and 2300-2354. Missing numbers were not assigned due to the difficulties of introducing exhibits before the commission and the tribunal simultaneously. Exhibits 1835-1838 were loaned to an agency of the Department of Justice for use in a separate matter, and apparently No. 1835 was never returned. Exhibits drew on a variety of sources, such as reports and directives as well as affidavits and interrogations of various individuals. Maps and photographs depicting events and places mentioned in the exhibits are among the prosecution resources, as are publications, correspondence, and many other types of records.

The first item in the arrangement of prosecution exhibits is usually a certificate giving the document number, a short description of the exhibits, and a statement on the location of the original document or copy of the exhibit. The certificate is followed by the actual prosecution exhibit (most are photostats,



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but a few are mimeographed articles with an occasional carbon of the original). The few original documents are often affidavits of witnesses or defendants, but also ledgers and correspondence, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
322	NI 5140	1558	NI 11411
918	NI 6647	1691	NI 12511
1294	NI 14434	1833	NI 12789
1422	NI 11086	1886	NI 14228
1480	NI 11092	2313	NI 13566
1811	NI 11144		

In rare cases an exhibit is followed by a translation; in others there is no certificate. Several of the exhibits are of poor legibility and a few pages are illegible.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, Reichgesetzblatt excerpts, photographs, and other items. The 4,257 exhibits for the 23 defendants are arranged by name of defendant and thereunder by exhibit number. Individual exhibits are preceded by a certificate wherever available. Two sets of exhibits for all the defendants are included.

Translations in each of the prosecution document books are preceded by an index listing document numbers, biased descriptions, and page numbers of each translation. These indexes often indicate the order in which the prosecution exhibits were presented in court. Defense document books are similarly arranged. Each book is preceded by an index giving document number, description, and page number for every exhibit. Corresponding exhibit numbers generally are not provided. There are several unindexed supplements to numbered document books. Defense statements, briefs, pleas, and prosecution briefs are arranged alphabetically by defendant's surname. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

At the beginning of roll 1 key documents are filmed from which Tribunal VI derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of members of the tribunal and counsels. These are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by the minute book, consisting of summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. Exhibits are listed in an index that notes the



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type, number, and name of exhibit; corresponding document book, number, and page; a short description of the exhibit; and the date when it was offered in court. The official court file is summarized by the progress docket, which is preceded by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of the English-language document books.

The records of the I. G. Farben Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NM (Nuernberg Miscellaneous) Series, M-936; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; NP (Nuernberg Propaganda) Series, M942; WA (undetermined) Series, M946; and records of the Brandt case, M887; the Milch Case, M888; the Altstoetter case, M889; the Pohl Case, M890; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in the 42-volume *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947). Excerpts from the subsequent proceedings have been published in 15 volumes as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (Washington). The Audiovisual Archives Division of the National Archives and Records Service has custody of motion pictures and photographs of all 13 trials and sound recordings of the IMT proceedings.

Martin K. Williams arranged the records and, in collaboration with John Mendelsohn, wrote this introduction.

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Roll 96

Target 1

Prosecution Final Brief, Part VI

(English)

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

FINAL BRIEF, PROSECUTION (ENGLISH)  
PART II - INTRODUCTION + SECTIONS  
A-D

Case 6  
Prosecution

MILITARY TRIBUNALS

UNITED STATES OF AMERICA

- against -

KRAUCH and Others (Case VI)

FINAL BRIEF OF THE PROSECUTION

PART VI

Specific Comments and Proposed Findings of Fact Concerning  
The Individual Responsibility of Each Defendant

Nurnberg, Germany

1 June 1948.





PART VI - SPECIFIC COMMENTS AND PROPOSED FINDINGS OF  
FACT CONCERNING INDIVIDUAL RESPONSIBILITY  
OF EACH DEFENDANT

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SHORT INDEX

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UNITED STATES MILITARY TRIBUNAL VI  
SITTING IN THE PALACE OF JUSTICE, NURNBERG, GERMANY  
22 JULY 1948

THE UNITED STATES OF AMERICA :  
 :  
 - vs. - :  
 :  
 CARL KRAUCH, et al., :  
 :  
 Defendants. :

Case No. 6

On motions of counsel for the Prosecution, dated 14 July 1948, the following corrections are suggested in Part VI of the Prosecution's Final Brief, to wit:

(1) At page 312, the last sentence of paragraph (24) is stricken.

(2) On page 313, line 5, of paragraph (27) the references to Prosecution's exhibits 2176 and 2178 are stricken from evidence by the Tribunal.

(3) On page 315, last sentence of paragraph (29) is stricken since the Tribunal struck from the evidence Prosecution's exhibit 2175.

(4) At page 474, lines 9 through 11, there was an error in transcription. The sentence should read: "It was pointed out that in most Farben plants, the confidential agents of the Reich War Ministry were also appointed as the confidential agents of the Reich Ministry of Economics (and vice versa) and by appointing the same person to both positions."

Said modifications are hereby approved by the Tribunal.

s/ CURTIS G. SHAKE  
Presiding Judge

s/ PAUL M. HEBERT  
Judge

s/ JAMES MORRIS  
Judge

Dated this 22nd day of July 1948



true copy  
Barbara Skinner Mandellaub  
Chief, Court Archives

PART VI - SPECIFIC COMMENTS AND PROPOSED FINDINGS OF FACT CONCERNING  
INDIVIDUAL RESPONSIBILITY OF EACH DEFENDANT.

A - INTRODUCTION

In Part I of this brief, we made certain general observations concerning the individual responsibility of the defendants for the crimes charged in the Indictment. In Parts II, III, and IV, we analyzed the evidence relating to certain specific activities engaged in by these defendants in preparation for and the furtherance of aggression; in plundering and spoliating the chemical industry of Europe; and in illegally using and wantonly mistreating slave labor, including foreign workers, prisoners of war, and concentration camp inmates. In Part V, we discussed and evaluated certain defenses interposed by the Defense. In this Part VI, we will summarize briefly certain specific activities of each defendant during the period 1933 to 1945. This summation of certain specific activities by no means represents all of the evidence which is relevant with respect to the guilt of any particular defendant. It is merely meant to indicate certain highlights in the activities of the particular defendant involved, and to show the general nature of the fields of activity in which each was engaged during the period 1933 to 1945. The specific evidence referred to in these individual briefs should not, however, be construed as representing all the evidence which has been introduced and which bears upon the responsibility of each defendant. In the first section of this brief (Part I) the prosecution has discussed generally the responsibility of 19 of the 23 defendants by virtue of their positions and functions as members of the Vorstand of Farben. In a number of cases the discussion below will also include the responsibility of defendants by virtue of positions and functions apart from or in addition to their positions in Farben.

It should be again emphasized that in determining the guilt of any individual defendant, this whole brief (including Part I through VI, inclusive), together with the Preliminary Memorandum Brief of the Prosecution, should be taken into consideration. We will proceed to discuss

certain specific evidence relating to each individual defendant. We will conclude this partial summation on each defendant with a set of proposed findings of fact concerning the individual responsibility of each defendant.

B - CARL KRAUCH

1. Charges in the Indictment. The defendant KRAUCH has been indicted under Counts I, II, III, and V of the Indictment. The charges against KRAUCH embrace the following:

(a) Participation in the commission of Crimes against Peace. Count I sets forth the activities which it is charged constitute the commission of Crimes against Peace. As was emphasized in the Preliminary Memorandum Brief of the prosecution, the allegations contained in Count II relating to plunder and spoliation and the allegations contained in Count III relating to slavery and mass murder are specifically incorporated under Count I as constituting activities which were an integral part of the initiation, planning, preparation and waging of wars of aggression and invasions of other countries.

(b) Under Count II KRAUCH is charged with participation in the commission of war crimes and crimes against humanity particularly as they relate to the plunder of public and private property, exploitation, spoliation and other offenses against or involving property in countries and territories which came under the belligerent occupation of Germany in the course of invasions and aggressive wars.

(c) Under Count III KRAUCH is charged with participation in the commission of war crimes and crimes against humanity particularly as they relate to the enslavement and deportation to slave labor of members of the civilian populations of countries and territories which came under the belligerent occupation of Germany; the enslavement of concentration camp inmates; the illegal use of prisoners of war; and the mistreatment, torture and murder of enslaved persons.

(d) Under Count V KRAUCH is charged with participating in a conspiracy to commit Crimes against Peace.

2. General Nature of the Evidence Supporting These Charges. The evidence which has been introduced relating to the activities of KRAUCH during the period 1933 to 1945 reveals the following:

(a) During this period of 12 years KRAUCH was a dominant figure in Farben and played a leading role in shaping and formulating its policies. Although it is clear that after KRAUCH joined the government in 1936 his duties with the government required him to take a continually less active role in the detailed operations of Farben, it is equally clear that even after 1936 he maintained a high position in Farben; knew what was going on in Farben; was consulted with respect to Farben's major programs; was in a position to exercise strong influences with respect to the policies of the concern; and used his position in the government to further Farben's policies and Farben's power.

(b) From 1936 until the end of the war KRAUCH was a leading figure in the government and was in charge of activities which were indispensable to the preparation for and the waging of aggressive war by Germany. KRAUCH used his position in the government both to further the Nazi program of using force to take from other peoples what belonged to them and at the same time to see to it that Farben benefited thereby by reaping its share of the spoils and plunder, including its "share" of human beings for use as tools in this program.

(c) Through the instrumentality of Farben and through the positions which he held in the government KRAUCH bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression; and for formulating and carrying out programs for the use of



foreign laborers as slaves, the use of prisoners of war in armament industries, and the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These general charges against the defendant KRAUCH are proven beyond any reasonable doubt by the evidence which has been introduced in this case. The following specific activities of the defendant KRAUCH during the period 1933 to 1945 will serve to highlight the career of a man who cannot avoid major responsibility for the suffering and death of many people.

3. KRAUCH's Positions From 1933 to 1945. The positions which KRAUCH held from 1933 to 1945 are set forth in detail in FE's 300 and 301 and in KRAUCH's testimony, Tr. 5037, et seq. The following positions held by KRAUCH during the years 1933 to 1945 are of special significance:

(a) KRAUCH became a full member of the Vorstand in 1933 which position he held until 1940.

(b) During this same period, 1933 to 1940, KRAUCH was a member of the Central Committee of the Farben Vorstand.

(c) From 1940 to 1945 KRAUCH was chairman of the Aufsichtsrat of Farben.

(d) From 1929 to 1938 KRAUCH was Chief of Sparte I of Farben.

(e) In April 1936 KRAUCH was put in charge of the Research and Development Department of Goering's staff for Raw Materials and Foreign Currency, which staff was absorbed into the Office of the Four Year Plan in October 1936. In the Office of the Four Year Plan, KRAUCH was in charge of the Research and Development Department of the Office of German Raw Materials and Synthetics.

(f) In July 1938, KRAUCH was appointed Plenipotentiary General for Special Questions of Chemical Production within the Four Year Plan which position he retained until the end of the war.



(g) When the Reich Ministry of Economics and the Four Year Plan were reorganized in December 1939, KRAUCH became a commissioner in the Reich Office for Economic Development (which took over the functions of the German Office of Raw Materials and Synthetics). KRAUCH was later appointed provisional head of the Reich Office for Economic Development.

(h) KRAUCH was a Military Economy Leader from 1938 to 1945.

(i) KRAUCH was a member of the Advisory Board of the Economic Group Chemical Industry from 1934.

(j) KRAUCH was a member of the NSDAP from 1937 to 1945; a member of the NSFK from 1938 to 1945; and a member of the German Labor Front from 1934 to 1945.

4. Certain Specific Activities of KRAUCH During the Period 1933 to 1945. The specific evidence which is discussed here is not the only evidence which has been introduced bearing on the responsibility of KRAUCH. Thus for example there are many activities carried on through Farben for which all of the Vorstand defendants are criminally chargeable, as already indicated in the Preliminary Memorandum Brief and as more fully developed hereinbefore in this final brief concerning Vorstand responsibility. In the following summary of evidence concerning KRAUCH we will not attempt to enumerate all of these activities. We do believe, however, that this individual brief on KRAUCH, taken together with the prosecution's Preliminary Memorandum Brief and the evidence elsewhere discussed in this brief, give a sufficiently comprehensive picture to show that KRAUCH has been proven guilty beyond a reasonable doubt of the crimes charged in the Indictment.

In outlining the evidence concerning the participation of KRAUCH in the crimes charged we shall deal with his activities during the period from 1933 through 1939 on a year-by-year basis (calling attention from time to time as a matter of convenience to certain political events occurring in Germany during the years in question). Thereafter we will outline the evidence relating to KRAUCH's activities during the war years.

a. COUNT I - CRIMES AGAINST THE PEACE

THE YEAR 1933

(1) It will be well to recall first certain events that occurred during this year which have been established by the findings of the IMT or which the Tribunal will take judicial notice of for other reasons. On 30 January Hitler was appointed Chancellor. On 28 February the Reichstag Building was set on fire and Hitler, using the fire as a pretext, promulgated a decree suspending constitutional guarantees of freedom. On 5 March the decisive "election" was held. Hitler then used force against the opposition in the Reichstag and on 21 March the "Enabling Act" was passed. In April Goering founded the Gestapo and the Reich Association of German Industry submitted to Hitler a plan for reorganizing German industry. In July the NSDAP was declared to be the only legal party. In this same year the independence of the judiciary was undermined; special political courts were established; concentration camps made their appearances; Jews were eliminated from the civil service and persecuted; the Hitler Youth was organized on military lines; Goebbels established his Propaganda Ministry and Publicity Boards of the German Economy were established; Germany withdrew from the International Disarmament Conference of the League of Nations.

(2) In 1933 KRAUCH became a full member of the Vorstand and of the Central Committee and was recognized as one of the leading figures in Farben. In meetings with representatives of the DuPont Co., of Delaware in July 1933, Bosch indicated that upon his retirement KRAUCH, ter MEER and GAJEWSKI would take over (PE 57).

(3) In these same meetings (at which KRAUCH was present at certain times) it was indicated that industry must support the Nazi government to prevent chaos. The situation in Germany was discussed including the attitude of the government toward the Jews. The plans of I.G. Farben to greatly increase the production of gasoline from coal were also discussed (PE 57).

(4) KRAUCH began discussions in 1933 with Nazi government officials concerning the production of synthetic gasoline. Among the leading

government officials with whom he discussed this matter were State Secretary Feder (Tr. 5040-5042); Milch, Under Secretary of State in the Ministry of Aviation (Tr. 5043 and PE 138); and Hjalmer Schacht (Tr. 5047). These discussions which KRAUCH held with leading Nazi government officials in 1933 had been foreshadowed by the visit of BUETEFISCH and GATTINEAU to Hitler in 1932 (PE 59). After visiting Hitler in 1932, at Bosch's request, BUETEFISCH and GATTINEAU reported to KRAUCH (Tr. 5429-5431). In the spring of 1933 Farben started large scale production of synthetic gasoline at Leuna works (PEs 541 and 542). In 1933 Farben started conferring with the Luftwaffe to develop high grade aviation gasoline for military aircraft (PEs 523, 525, 534 and 536). These fuels and lubricants differed from those useful in peacetime (Tr. 1362-1364 and PEs 516 and 523). In December 1933 the gasoline agreement between Farben and the Reich was signed with the approval of Hitler (PEs 92 and 94).

(5) In 1933 the production of synthetic oil, rubber, nitrogen and new facilities for the production of light metals were considered in connection with preparations for "A Fall" (PEs 90 and 91). In August 1933 KRAUCH gave detailed information to Milch concerning motor fuels (PE 404). In a discussion in September 1933, between representatives of Army Ordnance and the Reich Air Ministry in connection with preparations for "A Fall", Milch gave General Bockelberg KRAUCH's memorandum concerning the expansion of the raw material basis with particular references to oil (PE 90). In August 1933 Farben advised Army Ordnance of its readiness to take up again the production of synthetic rubber on a large scale if it received the support of the Reich (PE 95). In November 1933 there was a meeting between members of Farben, Army Ordnance and the Reich Ministry of Economics concerning the development of synthetic rubber (PE 445). In 1933 Farben received from the Luftwaffe the order to build a secret magnesium plant with a capacity of 12 thousand tons a year, the construction of which was handled by the TEA (PEs 98 and 744).

(6) Despite the fact that Hitler's actions in 1933 following his seizure of power were such as to put any reasonable person on notice that Hitler meant what he said in "Mein Kampf" and in the Nazi Party Program, representatives of Farben (and other industrialists) called



upon Hitler (PE 59); Farben began in 1933 to support the Nazi Party financially (PEs 73 thru 81); and in matters such as hiring and training of employees the Nazi Party aims were followed whole-heartedly by Farben (PEs 82 thru 89). In 1933 KRAUCH knew of and approved the air raid protection measures taken by Farben (PEs 71, 173 and 174); inaugurated war games (PE 102); sent a representative to the Reich Air Ministry to discuss the development of a new war gas (PE 104). As a member of the Vorstand KRAUCH knew of and approved various security measures taken in the light of the possibility of war (PEs 170 thru 190). KRAUCH does not deny his knowledge of and connection with these early mobilization plans, air raid measures, etc, but denies that industry took the initiative in these matters and speaks of the same measures having been taken in the United States (Tr. 5056).

#### THE YEAR 1934

(7) In January 1934 the Fuehrer (leadership) principle was introduced to regulate German labor. In February Hitler instructed the Reich Ministry of Economics to reorganize the economic and industrial life of Germany (PE 71). Decisive rearmament measures were taken by the <sup>German</sup> government which was summarized by the Ministry of Economics in a report of 30 September entitled "The Progress of Work for Economic Mobilization". This report assigned to Farben an important role in German economic preparation for war (PE 716). In November Schacht issued a decree giving the Reich Group Industry governmental powers in the planning of the German mobilization for war (PE 72).

(8) In 1934 KRAUCH became a member of the German Labor Front and a member of the Advisory Board of the Economic Group Chemical Industry.

(9) By 1934 Farben had worked out detailed plans for defending their plants against air raids and all important plants engaged in maneuvers called war games (PE 102 and other exhibits in Prosecution DB 5). KRAUCH and others decided that air raid precautionary measures were so vital for the plant that they had to be discussed with the central offices of the Reich (PE 178).

(10) On 11 October 1934 conferences were held at Leuna plant between

General Brockelberg, Chief of Army Ordnance Office, representing the Wehrmacht, and Farben representatives including the defendants KRAUCH, SCHNEIDER and BUETEFISCH, where measures for the "A Fall" (Case of War) were discussed (FE 517).

(11) In 1934 conferences began with Army Ordnance and representatives of other Reich agencies concerning synthetic rubber (FE 95). The Reich Ministry of War had decided to earmark one million Reichsmarks for testing synthetic rubber, and the Wehrmacht agreed to take over newly produced tires at actual cost price (FE 562). In 1934 another magnesium factory was started by Farben for the Luftwaffe. The major part of the investment for this plant was provided by the Luftwaffe in the form of a credit of 44 million Reichsmarks (FEs 95, 573, 574, and 107). As early as 1934 an alloy of magnesium and aluminum was produced by Farben for the Reich Ministry of Aviation (FE 582). In 1934 Farben began constructing standby plants to be used only in "A Fall" (FE 667). In 1934 Farben began stockpiling raw material as part of the government's program of economic preparation for war (FE 716). As early as March 1934 Farben instructed its subsidiary Chemnyco not to indicate to DuPont the attitude of the Nazi government toward the exchange of information, requesting Chemnyco "we must not allow foreign industries to gain the impression that in this respect we are not free to negotiate" (FE 952).

#### THE YEAR 1935

(12) Military preparations in Germany were intensified in 1935. It was in March of that year that Goering publicly announced that Germany was building a military air force. During the same month the compulsory military service act was instituted. In May Hitler publicly denounced the disarmament clause of the Versailles Treaty. The secret Reich defense law was passed in 1935 defining certain duties and obligations in the event that Germany should become involved in war.

(13) Cooperation between Farben and the Wehrmacht in 1935 was intensified. In September the defendant KRAUCH informed all Works Combines and other important Farben agencies that the Central Committee had decided to create a "War Economic Central Office of the I.G. for all matters of

military economy and questions of military policy", the Vermittlungsstelle V (V/W) in Berlin; in view of the fact that "Since 1934 conferences and discussions with various military officers and authorities in Berlin became more and more numerous and urgent" (FES 99 and 101). The purpose of the V/W was to ascertain what was to be done in case of war. In KRAUCH's memorandum of 31 December 1935 concerning development of the work of the V/W it is pointed out that in the case of war Farben will be treated by the authorities concerned with armament as one big plant (FE 140). The defendant KRAUCH does not deny that the founding of the V/W was because of German rearmament (Tr. 5053 to 5054).

(14) In January 1935 an oil conference was held at Ludwigshafen with KRAUCH and others present at which time establishment of Brabag was discussed among other things (FE 518). In June a license agreement was entered into between Farben and Brabag signed by KRAUCH, BUETEFISH, Kranefuss and others (FE 521). KRAUCH became a member of the Vorstand of Brabag. KRAUCH testified that Schacht requested him to join the Vorstand of Brabag in order to prevent the Nazi Party from gaining too much control of business (Tr. 5050). In June 1935 a conference between Farben officials and Wehrmacht officials was held at which it was decided among other things that a further exchange of experience between Standard Oil and Farben was untenable so far as development work for the Reich Air Ministry was concerned. KRAUCH was informed (FE 523). In July 1935 General Milch, State Secretary for Aviation, and KRAUCH began close cooperation which resulted in a meeting between KRAUCH and Goering to discuss the long-range viewpoints pertaining particularly to the German Air Force (FE 138). In August KRAUCH wrote to Milch concerning the French process to produce synthetic gas (FE 405). In December KRAUCH wrote to Milch referring to an inspection trip to the Air Ministry on 16 and 17 December and stating that Bosch had reported to the Central Committee on the impressions gained on this visit (FE 406).

(15) In January 1935 Army Ordnance indicated that work on synthetic tires should be speeded up so that military officials could decide whether to concentrate on the synthetic program or the stock-piling of rubber. Army Ordnance made it clear that the production of synthetic rubber had



become a military policy and that the decision of the Wehrmacht was decisive (PE 547). With Hitler's renunciation of the Treaty of Versailles and the promulgation of the Reich Defense Law, which the IMT said marked the stage when Hitler plainly began preparing Germany for war, Farben intensified its explosives production program. As early as August 1935 Farben discussed with Army Ordnance the construction of digly d plant at Wolfen (PEs 108 and 109). This plant was "originally planned merely as a stand-by plant in case of war" (PE 120). In August 1935 Farben also discussed with Army Ordnance the production of stabilizers and planned the construction of plants to produce such stabilizers (PEs 108 and 115, Tr. 1090 and 1095). In 1935 Farben, in close cooperation with Farben's Dynamit AG (DAG) and Army Ordnance, on its own initiative conducted experiments concerning hexogen which has no substantial peacetime use (PEs 110 and 111, Tr. 1091, 1093 and 1379).

(16) In February 1935 a conference was held between representatives of Farben, the Reich Air Ministry and Army Ordnance, in which Farben took steps to try to keep another firm out of the production of magnesium. KRAUCH participated in taking these measures (PE 578). A stand-by plant at Strassfurth was set up by Farben for the production of magnesium for the Luftwaffe (PE 667). Beginning in September the production of the magnesium plant at Aachen was stored in the form of tubes for incendiary bombs concealed as ordinary civilian products (PE 98). In September a conference was held at Oppau (copy of minutes sent to KRAUCH) concerning the production of nickel; the stock piling of nickel; and transferring a plant for the production of metallic nickel to Central Germany (PE 720).

(17) In 1935 KRAUCH and von KNIERIEM had discussions with General Thomas, Chief of the Military-Economy Staff of the German High Command, concerning the clearing of foreign agreements with the Military-Economic Staff of the Wehrmacht (PE 1016). In August 1935, which had been the sole producer of poison gas in World War I, concluded a contract with Orgacid according to which Farben was to give Orgacid the necessary technical advice and help in the production of mustard gas (PEs 351 and 621, Tr. 1387-1394). In October a project for bombproof gasoline storage tanks was prepared by KRAUCH's assistant in the V/V, Dr. Ritter, and

submitted to the Reich War Ministry and the Wehrmacht (PE 747).

#### THE YEAR 1936

(18) In March 1936 German troops occupied the demilitarized zone of the Rhineland. By April 1936 Schacht began to lose his influence as a central figure in the German rearmament because he opposed the enormous program for synthetics (IHT, p. 307).

(19) The first measures taken by Goering in May 1936, after he had been appointed Coordinator of Raw Materials and Foreign Exchange by Hitler were clearly aimed to assure the raw materials requirements for the Wehrmacht. Decisive for all discussions was the so-called Case "A" ("A Fall", or "Case of War"). At Goering's crucial meeting of 26 May 1936, attended by the defendant SCHMITZ, Goering emphasized the dependence of the Army and Navy on oil. It was pointed out that the waging of war depended on the oil program. Goering also declared "rubber is our weakest point" (PE 400). In testifying on cross-examination with respect to the comments made at this meeting, KRAUCH affirmed that Goering's statement concerning oil and rubber was true and that both were products which would be needed in case of war. He contended, however, that the war which was contemplated was a defensive war (Tr. 5443-5444).

(20) The defendant KRAUCH (who had already submitted to the Reich Air Ministry, headed by Goering, his own "Four Year Plan" as early as 1933), was put at Goering's disposal by Bosch, Chairman of the Vorstand of Farben (PEs 402, 138 and 437). KRAUCH was given the key position in the Department of Research and Development (PE 426).

(21) Shortly after KRAUCH had assumed his functions on Goering's staff, he called for a report from Farben for its contracts with the Reich, including Farben's Leuna contract during World War I (PE 679). KRAUCH took with him the two most important men of the V/W - Ritter and Eckell (PE 407).

(22) In July 1936, two months after KRAUCH had taken a prominent position in the government, Hitler in a memorandum to Goering, outlined the basis of the Four Year Plan to prepare Germany for war, concluding:

(1) the German army must be ready for combat within four years; (2) the German economy must be mobilized for war within four years (PE 411). In commenting upon this memorandum on direct examination, the defendant KRAUCH stated:

"I would not conclude from this document that Hitler, with the creation of the Four Year Plan, had intended an aggressive war but this memorandum is merely a confirmation of what I learned at that time about the aims of the Four Year Plan" (Tr. 5083-5084).

(23) Activities within Farben in connection with preparation for war kept step with the greatly accelerated pace of the actions of the government. In 1936, the defendant KRAUCH established a special security section within the V/W and issued detailed directives for counter-intelligence (PE 145). In February, the question of the mobilization for war and production in case of war was discussed continually within Farben (PEs 191 and 192). In that month Sparte I, through V/W, wrote to the Reich War Ministry concerning the construction of a stand-by plant for the production of concentrated nitric acid (PE 112). In March, map exercises and war games were conducted on a large scale in most important Farben plants (PEs 102 and 103).

(24) Farben's first plant for the large scale production of synthetic rubber was started at Schkopau in 1936. In February 1936, Farben drew up a draft of a contract for a Buna factory with the capacity of 200 tons per month (PE 95). In June 1936 a conference took place under the chairmanship of KRAUCH with officials of the Reich Air Ministry and Army Ordnance to extend the capacity of the first Buna factory to 1,000 tons per month (PEs 95 and 149). The total peacetime requirements of the Army had previously been estimated at 50 tons per month (PE 95). By the end of 1936, Farben had agreed to build a Buna plant with a yearly capacity of over 24,000 tons (PE 554).

(25) In 1936 a tetra-ethyl lead plant was built at Gabel (PEs 144 and 715). In the same year the defendants purchased \$20,000,000 worth of gasoline from Standard Oil in order to build up gasoline stocks for the Luftwaffe. KRAUCH participated (PEs 731 and 994).

(26) In September, the military authorities conferred with KRAUCH's



assistant, Ritter, of the V/T and Sparte I, concerning the chlorine situation and were apprehensive that there was an insufficient amount of chlorine for "Case A". The increase of phosgene production was also discussed (PE 114). That same month the production of diglycol at Ludwigshafen and Wolfen was discussed with Army Ordnance (PE 114, Tr. 1093-1094). The production of "D. L." (direct lost or mustard) gas was also discussed (PE 114). KRAUCH tried to explain this expansion of diglycol production and the production of "D. L." gas in his direct testimony (Tr. 5071).

(27) In September 1936, at a secret meeting of the Council of Ministers with Goering, Schacht, Koerner, Keppler, and Loeb present, Goering read Hitler's memorandum concerning the Four Year Plan and stated that all measures must be taken "as though we were in imminent danger of war" (PE 412). A few days later Hitler made his speech announcing the establishment of the Four Year Plan (PE 413). In October Goering was appointed Commissioner for the Four Year Plan (PE 415). The Raw Materials and Foreign Exchange staff was absorbed in the Four Year Plan and KRAUCH assumed his position in the Office of Raw Materials and Synthetics within the Four Year Plan (PEs 425, 426 and 427, Tr. 5075-5076). In November General Thomas gave a lecture concerning the Four Year Plan describing it as "military economy at its purest" (PE 416).

(28) In October there was a conference held at the Farben building in Berlin concerning the oil program of the government with representatives of KRAUCH's office, BUETEFISCH and others present (PE 414).

(29) In November 1936 the V/T sent a circular letter to the various plants concerning war games (PE 185). In December the V/T issued most stringent security requirements relating to war materials, explosives, chemical warfare agents, fuels and other strategic materials (PE 114). In December Zahn of Army Ordnance, on a visit to Wolfen and Bitterfeld, indicated in view of the shortage of glycerin the diglycol plant at Wolfen must be in operation by 1 March 1937 (PE 115).

(30) In December KRAUCH's office sent a letter to the Ministry of War concerning a production program and the stockpiling of gunpowder,

explosives, chemical warfare agents, etc (FE 717).

(31) On 17 December 1936 Goering made a speech before the most important German industrialists. The defendants KRAUCH and SCHNITZLER were present. Goering outlined the purpose of the Four Year Plan stating in part:

"We are already on the threshold of mobilization and we are already at war, all that is lacking is the actual shooting" (FE 421).

The defendant KRAUCH attempted to explain that what he heard at that meeting had no relationship to a war of aggression but referred to danger from the East (Tr. 5137).

#### THE YEAR 1937

(32) In 1937 KRAUCH became a member of the NSDAP; a senator in the Kaiser Wilhelm Society; an honorary member of the Association of German Chemists; a security officer of Farben's Ludwigshafen-Oppau plants.

(33) For German industry 1937 was the year of mobilization. By the middle of 1937 all of Farben's plants had been fully advised by the V/W as to the nature and aims of the mobilization tasks to be carried out. In March 1937 Farben officials were informed that the Reich Ministry of War and Commander in Chief of the Armed Forces had ordered that a leadership committee for military economy be set up. War economy leaders would be appointed who would be responsible "in preparing and carrying out the mobilization of the armament industry and in the conduct of war" (FE 491).

(34) In January 1937 the V/W sent out a circular letter concerning plants which must be on a full production basis in case of war (FE 186). In March the V/W engaged in drafting plans for the mobilization of the individual Farben plants (FE 329). In that same month the V/W sent a circular letter to all Works Combines, DAG, and other Farben agencies on the individual mobilization tasks of the Farben plants (FE 195). And in March the V/W sent a letter to the Farben Works Combines and other agencies requesting information on behalf of Army Ordnance as to what

plants and sales departments had received secrecy regulations for firms executing Wehrmacht orders (PE 148). In July Sparte I in V/W sent a letter to the Military Economic Staff of the Reich War Ministry including two Farben directives on security and counter-intelligence (PE 144).

(35) In April there was correspondence<sup>2)</sup> between KRAUCH's office, the Military and Farben concerning a stand-by plant for the production of glycol, thyodiglycol, and acetic acid (PE 598). And in 1937 we find Farben undertaking the operation of a new sulphuric acid plant constructed solely for the purposes of the Wehrmacht and to be used only in case of war (PE 601).

(36) There was intensive cooperation in 1937 between Farben and the Four Year Plan. PEs 429 and 430 indicate Farben's share in the plant expansion of capacity under the Four Year Plan. Farben supplied technical experts to the Four Year Plan (PEs 408 and 410). In the field of synthetic rubber, Farben pledged its support to the establishment of Buna plants within the Four Year Plan (PE 557) and discussed with the Office of the Four Year Plan the expenses for Buna experiments (PE 558). Although Farben was only too willing to cooperate, KRAUCH was pressing so hard for increased production that in a letter from KUEHNE to ter MEER in January 1937, KUEHNE stated that Buna production was "being irresponsibly pushed by KRAUCH" (PE 552).

(37) In August 1937 KRAUCH wrote an article entitled "Youth to the Fore" in which he spoke of Germany's lack of raw materials and the role of chemistry in the Four Year Plan. His article referred to rearmament and the responsibility of the young people who belonged to the Hitler Youth, the SS and the SA (PE 22). KRAUCH tried to explain this speech in his direct examination (Tr. 5130).

(38) During 1937 KRAUCH's office intensified the plans for stock-piling, gunpowder, explosives, chemical warfare agents, etc, plans for the stock-piling of which had begun in 1936 (PEs 717 and 719).

(39) In June 1937 KRAUCH with other high government officials met in Goering's office to discuss the scarcity of iron and steel. Goering made it clear that "the Four Year Plan will do its share to create a foundation upon which preparation for war may be accelerated". The need of iron and steel for German armament and the fact that its export might facilitate "armament of the enemy", was discussed. Reference was made to "shipment of iron to so-called enemy countries like England, France, Belgium, Russia and Czechoslovakia" (PE 432).



THE YEAR 1938

(40) In February 1938, Section-A of V/W sent out a secret directive on the handling and destruction of secret documents and other secret matters (PE 157).

(41) On 11 March 1938, the Commercial Committee of Farben held a meeting attended by SCHMITZ, von SCHWITZLER, HAEFLIGER, ILNER, and MAUF, at which time mobilization questions were discussed (PE 250 or PE 893). At this meeting news was received that mobilization in Bavaria was in full swing. HAEFLIGER, in reporting on the meeting, states:

"We were uncertain whether simultaneously with the march into Austria, which to us was already an established fact, there would not also take place the 'short thrust' into Czechoslovakia, with all the international complication which would be kindled by it".

HAEFLIGER then describes the reaction of those attending the meeting (PE 2014).

(42) On 12 March 1938 Germany invaded Austria. This move was, the IMT found, a "premeditated aggressive step", but its timing was not planned in advance. Germany promptly gave directions for the application of the Four Year Plan to Austria, and Farben "immediately placed its cooperation at the disposal of the authorities" (PE 1040).

(43) As early as April 1938, Farben sounded out State Secretary Keppler on the official attitude towards Farben's taking over the enterprises in the Sudetenland of Czechoslovakia (PE 1072).

(44) In April 1938, KRAUCH's Office for Economic Development had worked out a program for assuring mobilization provisioning by stock-piling (PE 718).

(45) In May 1938, Farben's Commercial Committee received a report from a Farben representative in Czechoslovakia as to the political situation in the Sudetenland. It was decided to "employ Sudeten Germans with the purpose of training them within I.G. in order to build up reserves in order to employ them later in Czechoslovakia". The discussions involved the action to be taken to prevent "authorized sellers of I.G. products from having to be in any way dependent upon

Jewish banks" (PEs 833 and 1612; Tr. 2033-2034).

(46) Early in June 1938, KRAUCH went to Koerner and Goering and pointed out that the planning of his superior, Colonel Loeb, was based upon wrong figures and that it was dangerous to plan for war on the basis of such figures (PEs 437 and 402). After requesting the defendant AMEROS for his recommendations (PE 438) on 30 June, KRAUCH submitted to Goering a "new, accurate plan for explosives, gunpowder, chemical warfare agents, intermediates, etc.", incorporating substantially the recommendations of AMEROS (PEs 439 and 440).

(47) In June, the Reich Office for Economic Development issued a report, (first copy to KRAUCH), on production plan for powder, explosives, and chemical warfare agents, concluding that in order to reach more rapidly the level set for mobilization, rigid coordination and the granting of special powers are necessary (PE 436).

(48) On 30 June 1938, KRAUCH's Office planned the erection of a plant for the production of D-Lost with a monthly capacity of 5,200 tons (PE 440). After KRAUCH was appointed Plenipotentiary General, he informed Ludwigshafen that the building projects for D-Lost were pressing and that no postponement of the deadline set for their completion would be tolerated (PE 217).

(49) In July 1938, KRAUCH sent a top-secret letter to State Secretary Koerner stating that industry is willing to take upon itself greater responsibility in the field of rearmament, directs the production of gunpowder, explosives, and chemical warfare agents as products of the chemical industry. He outlines the steps which he took beginning in 1936 to direct the attention of the Wehrmacht to the urgent necessity of stock-piling. He pointed to the steps which he had taken for the stock-piling of Toluene for explosive factories as early as 1936, and the stock-piling of diglycol and oxol (as preliminary products for mustard gas) (PE 448). (See comments of KRAUCH in his testimony on cross-examination with respect to these activities, Tr. 5446).

(50) On 12 July 1938, the defendant KRAUCH drew up the "Military-Economic New Production Plan", also called the K-rinball or KRAUCH

Plan (K-Plan) which, in addition to gunpowder, explosives, chemical warfare agents, and intermediates, included mineral oil, rubber, and light metals. "The utmost acceleration" was called for with regard to gunpowder, explosives, and chemical warfare agents (PE 442).

(51) KRAUCH's Karinhall plan persuaded Goering of the necessity of appointing a Plenipotentiary General for mineral oil, gunpowder, and explosives (PE 445). The military regarded the activities as such a type that they should be entrusted to the Chief of Army Ordnance (PE 447). On his direct testimony, KRAUCH stated that Keitel objected to KRAUCH's appointment as Plenipotentiary General on the grounds that a man of industry should not obtain insight into the armament fields, pointing out that anyone appointed to this position would know how many divisions were being set up, what the plans were for bomber squadrons, etc. (Tr. 5096).

(52) After a series of conferences, a new so-called "Rush Plan" (Gschnell Plan) was drawn up by KRAUCH on August 13. This plan was agreed to by the High Command and officials of the Military Economic Office, as a result of which the military agreed to the appointment of KRAUCH as Plenipotentiary General for Special Questions of Chemical Production (PEs 449 and 452).

(53) On 22 August, KRAUCH was appointed Plenipotentiary General of the Four Year Plan for Special Questions of Chemical Production and the "Rush Plan" was "entirely entrusted to Dr. KRAUCH" (PEs 453 and 463). All of the measures taken by KRAUCH in connection with the "Rush Plan" were completed by Farben and its subsidiaries (PEs 444 and 452).

(54) In August, KRAUCH sent a letter to Farben's Ludwigshafen plant concerning the expansion of diglycol production, the production of D-L gas, etc. KRAUCH states that he was responsible for the procurement of the steel, of funds, and the workers, as well as supervision of the construction.

(55) Thus, in the year 1938, we find KRAUCH's activities and the activities of the Four Year Plan as a whole were frantically aimed at



only one purpose - to prepare Germany for total war as quickly as possible. (See also PEs 439 through 453, inclusive).

(56) On 21 September, the Vorstand was advised by the Commercial Committee of the details of the chemical plants in Czechoslovakia (PE 1043).

(57) On 22 September, KRAUCH and a number of other defendants were informed that after talking over the matter with SCHMITZ, the Central Committee placed 100,000 RM at the disposal of the Sudeten German Free Corps, an auxiliary military organization which was charged with maintenance of disturbances and clashes (PEs 834 and 1041).

(58) On 23 September, Farben arranged to have its own "commissars" appointed to take over chemical factories in the Sudetenland (PEs 1044 and 1045).

(59) In September, Farben plants were advised, through the V/U, concerning deliveries in case of mobilization because of transportation bottlenecks. Detailed provisions are set forth concerning transportation problems in the event of war. It is stated that the Reich Plenipotentiary General for Chemistry has requested that these forms be submitted as soon as possible (PE 224).

(60) On 1 October, the Sudetenland was occupied. On 14 October, Goering addressed his collaborators, at a meeting in the Reich Air Ministry at which KRAUCH was present, on the future aims of the Third Reich. Goering stated: "The Fuehrer has issued an order to him to carry out a gigantic program compared to which previous achievements are insignificant". He also stated that "specially fuel, rubber, powder, and explosives are moved into the foreground" (PE 401). KRAUCH has stated that this meeting, as well as the meeting of 17 December 1936, was not secret, having been attended by a number of representatives of industry (Tr. 5137-5138).

(61) On 11 October, Ter MEER sent a letter to State Secretary Brinkmann referring to discussions which he had held with Brinkmann on 4 October with respect to the location of Buna plant No. 3. Ter MEER says that he informed KRAUCH about these discussions. Ter MEER

requested that Brinkmann should not allow the Buna factories to be completely or preponderantly influenced by military interests now that the immediate danger of war has been removed. Ter MEER speaks of the possible location of Buna plant No. 3 in Upper Silesia which "could not be considered until now because this area was considered as a troop deployment area against Czechoslovakia" (PE 563).

(62) On 26 October 1938, Farben, through ILGNER, sent a letter to KRAUCH concerning proposals for the obtaining of Aussig and Falkenau plants, in which it is stated, among other things, that a Czechoslovakian financial participation in the reorganized plants could not be tolerated "for reasons of the Four Year Plan - the danger resulting therefrom is manifest in the field of both national and military economy" (PE 1844).

(63) At the same time, a conference was held at the office of defendant KRAUCH which was also attended by defendant KUGLER and Brunner, the then "Commissars" of the Aussig-Falkenau plants. According to the contemporaneous report made by the Commissars, they "were instructed to cooperate in planning the new plant installations which were anticipated for the Falkenau and Aussig territory like those for the manufacture of gasoline and paraphine, etc." (PE 2152, p.3). According to the same report, "Dr. KRAUCH's Office estimates that the extension of basic calcium will require an outlay of 9 million marks, the hexachlorethane plan will take 500,000 marks, and the production of smoke screen acid and stabilized calcium hypochlorite a further 500,000 marks" (PE 2152, p.3). The consequence defendant KUGLER and Brunner drew from these instructions and plans of the KRAUCH Office, was that the rightful owner, the Prager Verein, should lose its property since "it should be practically impossible, in the long run, to conceal (from a part owner) the fact of a military economic production of the kind" (PE 2152). In some circumstances, to say the least, these defendants did not think "window-dressing" was likely to deceive or to be a proper strategy to conceal the plain truth!!!

(64) The extent to which KRAUCH's Karinhall plan of June 1938 and his Rush Plan of August 1938 were geared to the political situation existing at the time was well summarized in a report of the Military Economic and Armament Staff of the OKW which stated:

"In view of the strained political situation in the Autumn of 1938 and the demands thus created in the field of gunpowder explosives and chemical warfare agents, it seemed desirable to extend and above all accelerate the former plan. This was done in the Rush Plan of 13 August 1938, which represented the maximum obtainable from the conditions at the time .... For the implementation of this plan which was meant as a final solution, Prof. Dr. KRAUCH as Plenipotentiary General for Special Questions of Chemical Production received special authority from Goering. The control was in Dr. KRAUCH's hands. Execution was divided. \*\*\*" (PE 454).

(65) In implementing his Economic New Production Plan, including the Rush Plan, KRAUCH sought and received cooperation from all agencies of the Nazi government. Dr. Ley and the German Labor Front gave their assistance in the implementation of the program and Dr. Ley commissioned a special deputy as a liaison man between the German Labor Front and KRAUCH (PE 452).

(66) 1938 found the Nazi government taking additional measures in its program of persecution of the Jews. The so-called Third Implementation Decree for the Reich Citizenship Law was promulgated declaring a business enterprise to be Jewish if one or more members entitled to sign for the company are Jewish; if one or more of the Aufsichtsrat members are Jewish, etc. (Official German Gazette I, p.627). At a Farben staff meeting held in July 1938, under the heading Jewish firms, it was reported: "Gilcher reports about a conference with Dr. KRAUCH. Dr. KRAUCH has informed him that he has been told by competent gentlemen in the Reich Ministry of Economics that the implementation decree three for the Reich Citizenship Law will not apply to the I.G.; it is well known that things are in good order in the I.G.".

#### THE YEAR 1939

(67) In January 1939, the Office of Military Economy in a report on KRAUCH's mineral oil plan stated that mineral oil was just as



important for warfare as aircraft, tanks, ships, arms and munitions (PE 537). In a report to Goering on the aims and demands on the mineral oil project (copy to KRAUCH and SCHNEIDER) in the same month, the necessity is stated for giving the mineral oil expansion top priority in the rearmament program (PE 538).

(68) A report in February 1939 on an inspection made with representatives of Army Ordnance with respect to the situation concerning explosives, chemical warfare agents, diglycol, mustard gas and other products (a copy of which was found in KRAUCH's office and which KRAUCH received copies of) is most revealing in showing the targets and goals of the Rush Plan. The deadlines set and the quantities called for are consistent only with the preparation for aggressive war (PE 609). For example, under the heading gunpowder it is stated in this report that the calculations are based on the assumption that a corps has three divisions (a German Division contains 20 thousand men) and in the conclusions with respect to production of explosives figures are given for a minimum strength of "20 corps of fighting troops" (which would be 1,200,000 men) and a maximum of "30 corps of fighting troops" (which would mean 1,800,000 men). (See pp 26-29 of English copy of PE 609).

(69) In February KRAUCH sent a letter to AMEROS concerning ethelyne production and the production of "D" mustard gas (PE 634). In the same month Farben's V/W suggested a conference of mobilization managers of Farben's plants on the status of mobilization tasks (PE 238). This conference was held at the V/W office in Berlin in March at which time numerous <sup>mobilization</sup> projects, including armament productions, manpower, etc. were discussed (PE 239).

(70) On 15 March, broken by Goering's threat to destroy Prague from the air, the Czech president signed the agreement for the occupation of Bohemia and Moravia by German troops. In April 1939, the defendant KRAUCH submitted a work report to the General Counsel of the Four Year Plan in which he showed clearly that he grasped fully the real significance of Hitler's and Goering's foreign policy. The

conclusion of this report shows beyond any reasonable doubt that KRAUCH was preparing for and knew he was preparing for an aggressive war (PE 455).

(71) KRAUCH's report to the General Counsel of the Four Year Plan gives a detailed picture of German rearmament in powder, explosives, chemical warfare agents, rubber, gasoline and light metals in addition to giving a picture of the political situation was sent on 29 April 1939. This was the day after SCHNEIDER was deputized to act for KRAUCH in Sparte I because KRAUCH's time was too much taken up in his government position (PE 456).

(72) In May 1939 the V/W submitted a secret report to the Military Economic Staff containing detailed information concerning the location and production capacity of the English stand-by plants. Report states that the total production capacity of the plants would be enough to cover the entire requirements for the production of highly concentrated nitric acid even should the Billingham plant be put out of commission (PEs 922 and 923; Tr. 5449-5450). In the same month Section A of V/W issued instructions on counter-intelligence, secrecy and limitations on the employment of Jews (PE 160).

(73) In June 1939 a report was sent to KRAUCH and practically all of the defendants concerning the development and research work of Farben done on Wehrmacht orders or in conjunction with the Wehrmacht offices. In this report it was made clear the extent to which Farben activities were for the Wehrmacht (PE 166).

(74) In June 1939, about the same time as von SCHNITZLER was informed that Hitler was determined to invade Poland and that, therefore, Germany must be prepared for an attack on its western frontier (PE 40), KRAUCH was visiting with Goering on the Island of Sylt. In KRAUCH's conference with Goering, KRAUCH's fears of a war were discussed and Goering asked KRAUCH whether he thought that if Germany had a war with Poland and Russia, France and England would fight on the side of those countries (Tr. 5141-5142). This fear that France and England would support Poland and Russia in the event that Germany invaded Poland.

apparently was what the defendant KRAUCH regards as constituting a "defensive war" (in this connection see his testimony concerning the construction of the West Wall for "defensive purposes", Tr. 5114, 5446, 5447).

(75) In June 1939 Section A of V/W issued instructions on secrecy of plants operating under the Four Year Plan and new directives outlining what should be done in case of war (PEs 161 and 162).

(76) In July 1939 the V/W corresponded with the Reich Ministry of Economics concerning the products being produced in the Ludwigshafen-Oppau plants and concerning additional steps to be taken in case of war (PEs 230, 231 and 232). In that same month the V/W wrote Farben plants concerning the supplying of armament industry with fuel in case of mobilization (PE 233) and also directed the production of aluminum chloride in stand-by plants (PE 234).

(77) On 26 July 1939, a comprehensive report was prepared entitled "the most important chemical plants in Poland" setting forth details with respect to such plants as their production, names of their owners, adaptability to the German war effort, etc. (PEs 1137 and 1135).

(78) On 2 August 1939 Ungewitter, head of the Supervisory Office Chemistry, etc., informed Farben through the V/W concerning the immediate stock-piling of raw and auxiliary materials necessary for the mobilization order which would cover the requirements for three months (PE 742).

(79) In August 1939 a report was prepared by KRAUCH's office on the status of the production of gunpowder, explosives, chemical warfare agents and smoke screen materials according to the plant producing the same (PE 610).

(80) On 12 August, Farben immediately put into effect its drastic camouflage measures which the defendant von KNIERIEM had devised for the protection of Farben's foreign assets from seizure in the event of war (PE 1625).

(81) Reports from KRAUCH's own office show clearly that in connection with the execution of the KRAUCH plan on 12 July 1938 and the Rush Plan on 13 August 1938 that KRAUCH was counting upon the possibility



that war might come any day (PEs 459 and 610).

(82) On 28 August the V/W notified the Farben plants that its offices could be reached by telephone and teletype on a 24-hour basis and pointed out that the teletype was to be used in preference to anything else because of speed and transmission of news (PE 262).

(83) When the war with Great Britain and France broke out on 3 September Farben needed only a simple telegram from the V/W instructing that "all I.G. plants to switch at once to the production outlined in the mobilization program", and on 6 September the V/W informed the Farben plants that the war delivery contracts became effective immediately (PE 266).

(84) With the start of the war the defendant KRAUCH together with General Thomas head of the Wehrmacht and General Becker head of the Army Ordnance prepared to increase the production for the KRAUCH Plan and a draft was sent to Hitler (PEs 460 and 461).

(85) At the start of war the programs operating under the Four Year Plan were included along with the other armament programs in the so-called Wehrmacht production plans (PE 1724). In the field of labor in October 1939 special priority was given for workers for the KRAUCH Plan (PE 457). In November a conference was held with General Thomas with respect to increase of steel and iron quotas for the KRAUCH Plan. In December Goering reorganized the Reich Office for Economic Development and appointed KRAUCH acting chief (PE 462).

(86) When the General Counsel for the Four Year Plan took over the supreme command in questions of military economy at the time that the office of the GBW was dissolved in December 1939, KRAUCH assumed a leading role in the meetings of the General Counsel (PEs 466 and 463).

(87) When Goering no longer exercised his function of the Four Year Plan and when the Central Planning Board became the supreme authority of the German war effort, KRAUCH also participated in the meetings of the Central Planning Board (PE 481).

(88) In September 1939 conferences were held at The Hague between representatives of Farben and Standard Oil (of which KRAUCH was informed)

concerning the transfer of Buna and oil patents in order to protect them from seizure in the event of war with the United States (PE 980).

#### THE WAR YEARS

(88a) After 1 September 1939, KRAUCH continued to play a leading role in the German war effort, participating in a major way in the aggressive wars being waged, knowing that their purpose was conquest. His activities were indispensable to the waging of these aggressive wars and the preparation for new acts of aggression. (See for examples PE 454, 469, 470, 471, 465, 274, 463, 474, 475, 131, 300, 301, 402, 403, 417, 419, 467, 482, 590, and 618). In addition to his activities in creating and equipping the Nazi military machine for aggressive war, in what might be called the field of production, KRAUCH also participated in the initiation, preparation and waging of aggressive wars through his participation in the spoliation activities charged in Count II of the Indictment and in the slave labor activities set forth in Count III of the indictment. We will now proceed to discuss first his participation in the activities charged under Count II and then the participation in the activities charged under Count III.

#### b. COUNT II - PLUNDER AND SPOILIATION

(89) In his dual capacity as the top man in Farben and a key figure in the government, KRAUCH was interested in, and did what he could to promote Farben's effort to share in the spoils of the Nazi conquest. Even before 1 September 1939 KRAUCH was kept informed of the steps which Farben took to take the chemical industries of Austria and Czechoslovakia by threat of force just as the Nazis had taken over these countries by the same means. KRAUCH was kept informed both with

respect to Farben's spoliative activities in Austria (PE 2139) and Farben's spoliative activities in Czechoslovakia (PEs 1844 and 2023; also PE 563). His active part in the Czech case is shown by PE 2152 (more fully discussed in Par. 63, supra). The last documents also show how closely Farben's spoliative activities were interconnected with preparing aggressive war.

#### Poland

(90) Shortly after the invasion of Poland, KRAUCH sent a representative of his office with the defendant WURSTER on a trip to Poland for the purpose of making a survey of the most important Polish chemical plants and submitting recommendations as to what to do with them (PE 1134). The report will be analyzed in the section dealing with defendant WURSTER's individual responsibility (PART VI-T infra).

#### France

(91) KRAUCH took the initiative in connection with the removal of machine installations of the Simon Pit in Lorraine, France, despite the fact that there was considerable doubt expressed in the Foreign Office whether the removal of this machinery was permissible under international law (PEs 1840, 1841, 1842 and 1843). In trying to explain this matter on cross examination, KRAUCH claimed that those



machines were in plants that had been inactivated (Tr. 5522). On redirect examination KRAUCH claimed that he did not have legal experts in his office and relied upon the OKH who had ordered this measure (Tr. 5560). KRAUCH also claimed in his defense that he was engaged in protecting the economy of the occupied countries, particularly on behalf of the Belgian, Dutch and French nitrogen industry (Tr. 5170-5171; see also affidavit Rumscheidt, KRAUCH Exh. 40). As a matter of fact, KRAUCH's "protection" of the nitrogen industry in Holland did not prevent the wholesale plunder of the Dutch Gluiskil factory which was outstanding in the field of nitrogen. As KRAUCH's witness Rumscheidt confirmed on cross examination "the fact is that in 1943 the plant was dismantled" (Tr. 14,429). Essential parts were shipped to plants owned or controlled by Farben in Germany and Austria (Tr. 14,429 et seq.; see also individual brief on defendant BUETEFISCH, Part VI-L infra).

#### Norway

(92) Defendant KRAUCH played an outstanding part in the exploitation and spoliation of Norway. In October 1940 discussions were held in KRAUCH's office concerning the expansion and production of aluminum in Norway for the German war effort. KRAUCH and Goppenberg were anxious for Farben to take over the technical aspects of the job, and KRAUCH expressed his views that this was a "unique opportunity in I.G. Farben's aluminum field" (PE 585). KRAUCH asked Farben to review its intentions as to the extent and type of participation in this Norwegian project pointing out that "there is an opportunity here for a participation of preponderant importance embracing the technical leadership for Farben" (PE 586). The same document (PE 586) states that a "decisive participation by Farben in the aluminum development may become the key factor of Farben's control of these (Norwegian) water works". Defendant KRAUCH now admits that "a certain pressure was to be exerted upon

Norsk-Hydro by the Aviation Ministry" (Tr. 5519), and that Norsk-Hydro did not believe they could "evade the Nazi government suggestion since, otherwise, there would be compulsory measures taken" (Tr. 5515). He claims that Farben itself acted under compulsion when participating in the project (Tr. 5516-5517). In fact, however, Farben, at the suggestion of defendant KRAUCH, was so eager to obtain for itself the largest possible share in the planned Norwegian light metal corporation that it even fought for a majority share (PE 586; this is developed in more detail in Part III-B, supra).

(93) Defendant KRAUCH was then kept informed of the details of the transaction including the increase of Norsk-Hydro's capital stock. Memoranda on Farben's plans to acquire the majority control of the new Norwegian corporation were forwarded to KRAUCH together with the other representatives of Farben most directly concerned (PEs 1201 and 1204). HAEFLIGER stated that SCHMITZ withheld his comments on the fundamental questions involved until he had discussed the matter with KRAUCH (PE 2000).

#### Russia

(94) On 28 June 1941 AMEROS forwarded to KRAUCH at KRAUCH's request a list of persons who were suitable to go to Russia to take over the Russian buna plants (PE 1176). In July 1942 AMEROS sent a letter to the Reich Ministry of Economics stating that "in view of the service rendered by I.G. Farben to the Reich we do not think it is fair if the Reich were now to enter into competition with the I.G. in Germany over the utilization of manufacturing methods by using those methods found in Soviet Russia" and demanded that Farben be given exclusive rights with respect to the Russian buna processes (PE 15). In August 1942, AMEROS sent a letter to Eckell in KRAUCH's office stating that, in view of their achievements in buna, Farben could demand the exclusive utilization of the processes and experience found in Russia. AMEROS concludes that he has been informed that the decision "rests with you" and says "in view of our renewed activities

in Russia, I request your early decision" (PE 1186). Defendant KRAUCH was also in charge of questions relating to the "trustee administration" of the chemical economy of the occupied Eastern territories including particularly light metals (HAZELIGER's contemporaneous memorandum, PE 1996). What "trustee" administration in this connection meant, is shown in Part VI-d, infra.

(95) KRAUCH was appointed a member of the Aufsichtsrat of Continental Oil A.G. (PE 1565; Tr. 5162). The IMT when finding Funk guilty of committing war crimes and crimes against humanity emphasized that he participated in economic exploitation of occupied territories. The IMT cited the fact that Funk was President of the Continental Oil Company "which was charged with the exploitation of the oil resources of occupied territories of the East" (p. 306, IMT). In commenting upon the purposes of Continental Oil A.G. on direct examination, KRAUCH stated first that it was for taking over the Russian oil deposits; then that it was for the purpose of taking over the Roumanian, Hungarian, and Polish oil deposits; and finally, on suggestion of his counsel, that it was for the purpose of taking over the Austrian oil deposits (Tr. 5163). However, this may be, it appears from PE 1983, a contemporaneous document, that in France alone refinery equipment in the amount of approximately 12 million Reichsmarks were seized and removed from France (p. 3). Shares of Roumanian oil companies (Foraky and Moldonaphta), "which were acquired by the Reich", were also amalgamated with Continental Oil or its subsidiaries (p. 4). Another affiliate of Continental Oil, the Carpathian Oil A.G., "has taken over the management of the plants (in East and West Polish Galicia) on a trustee basis" (p. 4). The Continental Oil Transport Corporation, again an affiliate, "has continued its work according to schedule, in particular the marshaling of captured Russian tank cars" (p. 5). This last document (PE 1983) was a report submitted to all members of the Supervisory Board of Continental Oil, among them defendant KRAUCH. As to more details, see individual brief on defendant BUETEFISCH (Part VI-L, infra).



(96) TRAUCH's criminal responsibility in the exploitation of "property in countries and territories which came under the belligerent occupation of Germany" (under paragraph 86 of the Indictment) cannot be separated from such war-time projects of the Third Reich as the Heydebreck and Auschwitz developments. Both of these developments were in "former" Polish territory. Both of them, as herein discussed, involved all the elements of criminal spoliation.

c. COUNT III - SLAVERY AND MASS MURDER

(97) KRAUCH continued on as Gebechem after Germany began to occupy the lands of its neighbors and to employ the resources of its neighbors, both human and material, to increase Germany's war potential. This alone makes out a case against KRAUCH beyond any reasonable doubt, since it is undenied that the Gebechem played a decisive role with respect to priorities for both labor and material in the so-called Gebechem plants and the plants under the K-Plan. Even if KRAUCH were merely an expert "business man" making recommendations on these matters to the government, as he has claimed, his culpability under Count III would be great. But both the contemporaneous documents and even the occasional "slips" of other defendants and witnesses in this case indicate that KRAUCH and the KRAUCH Office gave binding orders on labor assignments; that KRAUCH sought to tap the "slave labor" reserves of manpower throughout the occupied countries; and that KRAUCH was not a man who other powerful persons could omit from consideration in Germany's inhuman "hunt for manpower". The essentials in the case against KRAUCH have been made out amply in the Preliminary Memorandum Brief, Part III. The principal defenses have been met in Part IV of this brief, in which considerable supplementary proof assists in further establishing the charges. Herein we shall merely reassert a few of the fundamental facts by way of introduction and then proceed to discuss KRAUCH's "defense" concerning Auschwitz, along with some of the new proof developed during the defense case itself.

(98) In an affidavit KRAUCH stated that in his official capacity as Plenipotentiary General for special questions of chemical production he was the "highest authority in passing judgment regarding the allocation of labor for individual plants of the chemical industry" (PE 481). Commenting upon this affidavit upon direct examination, KRAUCH stated that this authority only related to those parts of the chemical industry which were within his competency as Plenipotentiary General (Tr. 5212). In August 1938 shortly after KRAUCH had been appointed Plenipotentiary General, Fritz Todt, the General Plenipotentiary General for Construction Work, sent a letter to the Reich Labor Ministry in which it was stated

that the KRAUCH Plan was in need of 1300 workers and that KRAUCH would submit immediately a list of the construction projects for which labor was needed (PE 457).

(99) In February 1940 KRAUCH attended a meeting of the General Counsel of the Four Year Plan in which the problem of the procurement of labor was discussed. It was stated at the meeting that it appeared likely that the German occupation army in Poland would have to bring the necessary number of workers from Poland to Germany by force (PE 1847). In July 1941 at a meeting of the Aufsichtsrat of Farben, SCHMITZ stated "the factories have taken all efforts to get the necessary workers; by utilizing foreign workers and prisoners of war the demand could be generally met" (PE 1312). KRAUCH was Chairman of Farben's Aufsichtsrat after 1940 (PE 300). And at a meeting of the Aufsichtsrat of Farben in May 1942, with KRAUCH presiding, SCHMITZ reported about the activities of Farben in 1941 and in the first quarter of 1942 stating "the lack of workers especially skilled laborers had to be compensated by longer working hours and the employment of women, foreigners and PWs" (PE 1313).

(100) In October 1941 KRAUCH developed an idea concerning the employment of Russian PWs in the armament industry which he passed on to Gen. Thomas, Chief of the Office of Military Economy and Armament in the Supreme Command of the Wehrmacht (PE 473). Following KRAUCH's suggestion of 20 October 1941 the Chief of the Supreme Command of the Wehrmacht issued an order on 31 October 1941 for the use of Russian Prisoners of War in the armament industry. The defense has sought to dissipate any connection between KRAUCH's suggestion and the issuance of this order (Tr. 5216 to 5219). In this connection the following excerpt from PE 472, EC-200, dated 4 October 1941, was put to KRAUCH by his counsel on direct examination: "It is therefore impossible to cover the actual labor requirements unless we use Russian PWs and civilian workers". These are conference notes made by a department chief following a speech by Hitler on 3 October 1941. These conference notes are dated 16 days prior to the time that KRAUCH's own idea concerning the employment of Russian PWs was passed



on to Gen. Thomas. We do not deny that other leaders of the Third Reich had developed a mentality and a code of ethics which led a number of them to recommend employment of Russians PWs in the armament industry of Germany at about this time. It is enough that KRAUCH was among these leaders. It is enough that he took a willing and aggressive part in this project. KRAUCH has testified that between the time his "idea" was passed on to General Thomas, eleven days elapsed before the actual issue of the order by the High Command (OKW). And that this was an insufficient time for his "idea" to have cleared the various ministries and be acted upon under any theory that his "idea" generated the final order (Tr. 5217). But KRAUCH was close to General Thomas, Chief of the Military Economy Branch of the OKW, and it was the OKW which issued the final order. It would be unlikely that General Thomas and his associates gave no heed to the "idea" of KRAUCH. They had had occasion to listen to him before (the KRAUCH Plan, the Rush-Plan, etc.). Moreover, a lot can happen in eleven days. In fact, eleven days after this very OKW order, the directors of Farben's Leverkusen plant (meeting of 11 November 1941) were already discussing the assignment of Russian PWs (PE 1371).

(101) KRAUCH could not perform his Gebechem functions concerning labor assignments without knowledge of the basic labor directives of the Third Reich concerning compulsory labor. In January 1942 the Labor Allocation Department of the Commissioner of the Four Year Plan sent out instructions to the various Reich offices in the occupied territories of Poland, Norway, Holland, France, Belgium and Luxembourg, stating again that the forcible mobilization of workers from the occupied territories could not be disregarded when "voluntary recruitment was unsuccessful" (PE 1288). Thereafter numerous representatives of KRAUCH's office were sent into the occupied territories to add to the efficient selection of laborers who could be useful in the so-called Gebechem plants. KRAUCH's defense has devoted a very substantial documentation in an attempt to prove that KRAUCH not only favored voluntary recruitment in the occupied countries but that he recruited

blocks of skilled workers by voluntary contract with local contracting firms. The defendant BUECHER characterized such "voluntary" dealings in his own handwriting as "private agreement with slave traders!" (PE 1964). What the occupied countries did to their own "slave traders" who supplied these workers to the German Reich is shown by the criminal sentences meted out to the leaders of the firms which KRAUCH has cited as his collaborators in this project (PEs 2180, 2181 and 2182).

(102) On 6 February 1941 a conference was attended by the defendants KRAUCH, AMEROS and ter MEER to discuss Auschwitz as a site for the fourth Buna plant. Prior to that meeting, AMEROS, through reports of his chief engineers and through his own personal inspection, learned of the concentration camp at Auschwitz and of the availability of the inmates as labor for the construction of a Farben plant at Auschwitz (PEs 1411, 2261, 1412 and 1415). After AMEROS gave KRAUCH and ter MEER a detailed report on the Auschwitz site, including specific mention of the existence of a concentration camp, "the decision for the selection of Auschwitz as the site was made" (PEs 1419 and 1414).

(103) On 18 February 1941 an order was issued by Goering to Himmler, with a copy to KRAUCH, stating that in order to build a Buna plant at Auschwitz at the highest possible speed certain measures would have to be taken to provide labor. These measures included the making available of the largest possible number of inmates from the adjacent concentration camp (the number then being estimated at between 8000 and 12,000) and the expelling of the Jewish inhabitants to make way for Farben personnel. Himmler was directed to act in the matter jointly with the defendant KRAUCH (PE 1417). This Goering Order was issued at the specific request of the defendant KRAUCH (PE 2199).

(104) On 26 February 1941 Himmler issued a decree requesting the commandant of the concentration camp to place concentration camp inmates at the disposal of I.G. Farben and ordering the evacuation of the Jews of the city of Auschwitz. The Himmler Order designates Obergruppen-fuehrer SS Wolff as liaison between Himmler and I.G. Auschwitz. KRAUCH's office forwarded this decree to Farben, attention of AMEROS, stating:

"At my suggestion (e.i., KRAUCH's) and acting upon the instruction of the Field Marshall, the Reichsfuehrer SS, under date of 26 February, has decreed the following ...." (PE 1422).

KRAUCH, in informing AMEROS of the special decrees he succeeded in obtaining to expedite the construction of I.G. Auschwitz, states that in connection with the workers who are to be assigned:

"It must never happen that for some reason you showed delay in employing the workers assigned, either because they do not include as many skilled workers as you would wish, or because of lack of housing" (PE 2199).

On his direct examination KRAUCH was asked:

Q. "Did you do anything on your own initiative in the sense that you actually asked that these inmates be employed?"

A. No, I did not do that. I even tried to prevent the employment of these concentration camp inmates" (Tr. 2531).

In support of KRAUCH's testimony, the affiant Goennert testified that as an engineer in the Goering train he had overheard a conversation between two others "by coincidence" because he "happened to be in the diner". From this conversation he gathered that there was some conflict between KRAUCH and Himmler with respect to the use of concentration camp inmates. Admitting that "Himmler's opinions were not represented", he states that KRAUCH was opposed to Himmler's desire of using concentration camp inmates "because he (KRAUCH) considered this as an effort of Himmler to interfere in this business" (Tr. 9300).

On the crucial point of initiative and responsibility of KRAUCH, the foregoing testimony of KRAUCH and Goennert should be weighed against the contemporaneous documents showing: (1) that it was KRAUCH who obtained both the Goering and Himmler orders making available concentration camp inmates to Farben for the building of I.G. Auschwitz (PEs 1422, 1417 and 2231); (2) that it was KRAUCH who was so satisfied with the I.G. Auschwitz pattern that on two separate occasions he wrote to Himmler suggesting that other plants be constructed by setting up concentration camps to solve the labor problem (PEs 1845 and 1525).



(105) In June 1942 AMEROS reported to KRAUCH concerning I.G. Auschwitz, stating that no other building<sup>site</sup> had been developed with such "elan" (PE 1443). Bearing in mind that the greatest single factor which caused the destruction of thousands of inmates of I.G. Auschwitz was the unrelenting pressure to speed construction and production, it should be noted that it was KRAUCH's office which set the deadlines and it was KRAUCH with whom deadlines were discussed at regular meetings (Tr. 11,649). Moreover, not only was KRAUCH instrumental in procuring the Goering and Himmler decrees which made it possible for Farben to obtain priority treatment with respect to concentration camp inmates of Auschwitz, but KRAUCH also continued to assist I.G. Auschwitz during the course of construction in its battle with the SS authorities to obtain more concentration camp inmates (PE 2207). Further, it was KRAUCH's ability as Gebechem to supply building materials for extending the main concentration camp Auschwitz which was used by I.G. Auschwitz as a bargaining point with the SS for obtaining more inmates from the Auschwitz concentration camp (PE 2206).

(106) In January 1943 KRAUCH sent a letter to DUZERFELD designating him as Commissioner of the entire Auschwitz plant and directing him to carry out his task with the greatest possible speed (PE 1500). On 2 July 1943 KRAUCH attended the 43rd meeting of the Central Planning Board at which the decision was made that the "area of Auschwitz should be pacified" and that additional inmates of the Auschwitz concentration camp should be furnished as laborers (PE 1507). On 27 July 1943 KRAUCH sent a letter to Reich Fuehrer SS Himmler in which he stated "he was particularly pleased to hear that during this discussion you hinted that you may possibly aid the expansion of another synthetic factory, which I consider absolutely necessary for securing rubber supplies, in a similar way as was done at Auschwitz by making available inmates of your camps if necessary. I have also written to Minister Speer to this respect and would be grateful if you would continue sponsoring and aiding us in this manner". (PE 1526).

(107) At a meeting of the Food Supplies Committee of KRAUCH's office in March 1943, it was stated "it is now permitted to beat French PWs for lack of discipline if need be" (PE 1376). In August 1943 KRAUCH's office sent out a circular concerning "measures for bringing back to work those French workers who had been voluntarily recruited by individual enlistment and have broken their contracts" (PE 476). On 15 January 1944 SS General Pohl sent a letter to Kranefuss concerning "Prison Inmates for Chemical Industry" and referred to a letter from Kranefuss of 7 January 1944. In his letter to Kranefuss, Pohl stated as follows:

"I have received your letter of the 7th of this month with the further request for lists of the Generalbevollmächtigten (Plenipotentiary) for special questions of Chemical Production and let you know that it is not possible at the present time to start new commands. In the list of requests various wishes are expressed which, however, have already been fulfilled for some time. These are:

1. I.G. Farbenindustrie A.G., Auschwitz, Upper Silesia. There prison inmates have been employed (eingesetzt) since April 1941. At present 5,300 inmates are employed.

2. Low temperature carbonizing plant (Schwelanlage) Jawischewitz, Jawischowitz, Upper Silesia. In the low temperature carbonizing plant Jawischowitz prison inmates have been used since July 1942. Originally 1,000 inmates were provided for this as is also specified in the list of requests that is now being sent. The labor unit (Kommando) was, however, enlarged. Already 1,300 inmates are employed (eingesetzt).

3. Luranil and Anorgana G.m.b.H., Dyhernfurth. For Dyhernfurth a total of 2,700 prisoners altogether are agreed upon who also will be sent. Now 450 inmates are employed (eingesetzt) .... I ask that you inform Professor KRAUCH of this" (PE 1513).

(108) On 13 January 1944 KRAUCH sent a letter to Kerhl, the head of the raw materials office of Speer's Ministry, in which he stated:

"May I be allowed to point out, however, that the efforts of my office in such matters as the procurement of foreign labor within the restrictions set on the initiative of the individual employer by the Plenipotentiary General for the Provision of Manpower, and the employment of certain classes of manpower (prisoners of war, inmates of concentration camps, prisoners, units of the Military Pioneer Corps, etc.), have had an effect upon the speed of progress of chemical production, and upon that production itself,

which must not be underestimated. I consider that the initiative displayed by my staff in the procurement of labor, a virtue which has proved its worth in the past, must not be repressed in the future" (PE 477).

(109) On 3 February 1944 KRAUCH held a conference with DUERFELD and Ritter concerning the transfer of 300 British PWs from Auschwitz to Heydebreck. At the conference KRAUCH instructed that Heydebreck must establish a "K.L.Lager" (concentration camp) as quickly as possible following the example of Auschwitz and the mining installations which are being built in the labor district of Auschwitz (PE 1845). In commenting upon this conference KRAUCH stated upon examination that the British PWs transferred from Auschwitz to Heydebreck were to work in a glycerine plant at Heydebreck the construction of which was demanded by the armament industry (Tr. 5561). With respect to the establishment of the concentration camp, KRAUCH attempted to assert that "K.L.Lager" did not mean concentration camp but meant prisoner of war camp (Tr. 5539). KRAUCH was then shown a number of documents which make it clear that "K.L.Lager" refers to a concentration camp (Tr. 5553). A few days later on 8 February 1944, KRAUCH held a discussion with Reich Minister Speer in which the urgent requirements of KRAUCH's office for workers was discussed. A proposed instruction to the armament offices was drawn up stating that the Gebechem required a continuous flow of labor. It states that "in order to cover the requirements of the Gebechem plants among other things recruiting campaigns in the occupied territories have been initiated with the cooperation of representatives of the individual industries concerned applying for labor under the Gebechem plan" (PE 478).

(110) On 12 May 1944 KRAUCH sent a letter to Speer concerning the withdrawal of workers from KRAUCH plants of the chemical production program for use in the fighter program. KRAUCH urged that 17 hundred inmates at Auschwitz should not be withdrawn (PE 479). In a conference with Speer on 15 May concerning the allocation of labor including concentration camp inmates for the "fighter program", it was decided that ten thousand German police officers should be incorporated in the



Italian police units to insure that "the present recruiting campaign in Italy should bear fruit" (PE 480). In September 1944 KRAUCH's office and Pohl's office entered into an agreement in which it was stated that the safeguarding of the ability to produce in the oil shale works should be the common task of the SS and KRAUCH's office and that the German Shale Oil Company (an SS concern) would furnish inmates as laborers (PE 1846). In December 1944 a meeting was held of the labor experts of the Gebechem plants attended by labor experts from KRAUCH's office and I.G. Auschwitz. There was a discussion among other things of the work performance of the concentration camp inmates and it was suggested that the work performance might be increased: (1) by increasing the guard through additional Kapos (it being pointed out that the Kapos had proved their worth); and (2) by adjusting the ration scales according to work performance (PE 1515).

(111) KRAUCH's drive to obtain these foreign workers caused special recruiting measures to be taken and meant that thousands of people were uprooted from their homes, brought to Germany, used as slaves and mistreated. Insofar as PWs are concerned KRAUCH himself was among a small group who advanced initially the idea Russian PWs should be used in the armament industry. By his own admission he participated in transferring British PWs, for example, from Auschwitz to an important armament factory (glycerine) at Heydebreck. Within the Four Year Plan he used thousands of prisoners of war in those fields of the chemical industry which are a part of the armament industry within any sensible meaning of the word. In the field of concentration camp labor there can be no doubt that KRAUCH's activities and the activities of the concern in which he was one of the highest executives, meant that thousands upon thousands of helpless human beings were used as tools in a ruthless drive for production at all costs, including the loss of human beings. It was through KRAUCH (and his connection with Goering) that Farben was able to obtain concentration camp inmates for I.G. Auschwitz, which fell within KRAUCH's domain as Gebechem.

KRAUCH has stated that prior to I.G. Auschwitz he was approached by Kranefuss respecting the employment of concentration camp inmates. He testified that he refused because the conditions of employment were "unworthy of human beings" (PE 1420). KRAUCH admits that he visited I.G. Auschwitz and the concentration camp Auschwitz but he wants the Tribunal to believe that he saw nothing wrong there (Tr. 5242-5248). KRAUCH admits that he heard a radio report from abroad about the bad conditions in concentration camps and says that he had investigations made by two of his assistants who were members of the SS (PE 5241). At one and the same time KRAUCH boasts about the efforts which he said he took at considerable risk to himself to investigate and correct the conditions of concentration camp inmates in a non-Farben plant at Wurtzburg (Tr. 5248-5252). But with all of this KRAUCH would ask the Tribunal to believe that he did not know that I.G. Auschwitz, for which he bore direct responsibility, was a murder camp for a period of over three years; and that several million human beings could be murdered at a site at which one of his major projects was situated without him knowing anything about it. Typical of the incredible explanations which KRAUCH gave in his story that he was prevented from inspecting the main camp at Auschwitz because "a low-ranking SS officer" who was in charge would not let him in (Tr. 5245). There is no necessity here for arguing that KRAUCH being under a duty to investigate shut his eyes to the situation, for it is clear beyond any possible doubt that KRAUCH knew what the facts were. The role of KRAUCH and the role of Farben at Auschwitz is a major role in one of the blackest chapters in the history of mankind.

#### d. COUNT V - CONSPIRACY

KRAUCH was also charged under Count V of the Indictment which charges a conspiracy to commit Crimes Against Peace as indicated in Part 5 of the prosecution's Preliminary Memorandum Brief. This conspiracy to commit crimes against peace embraces the matters in Counts II and III as well as Count I inasmuch as the acts and conduct proved

under Counts II and III are charged as an integral part of Crimes Against Peace. All the evidence which has been introduced relating to the activities of KRAUCH should, accordingly, be considered in connection with both his guilt under Count I and his guilt under Count V. The theory of the prosecution with respect to Count V is set forth in its Preliminary Memorandum Brief and in Part I of this final brief.

5. Defenses Interposed by KRAUCH: We will now proceed to discuss certain defenses interposed by the defendant KRAUCH in an effort to justify his course of conduct over this period of 12 years. To the extent that KRAUCH has attempted to defend his conduct his defenses may be briefly summarized as follows:

(a) KRAUCH has not denied that he participated in the rearmament of Germany but claims that this was for defensive and not aggressive purposes.

(b) KRAUCH makes some effort to contend that his activities relating to slave labor (foreign laborers, prisoners of war, and concentration camp inmates) were carried out under what might be called "compulsion".

(c) With respect to concentration camp laborers, KRAUCH claims he did not know of the bad conditions at I.G. Auschwitz and elsewhere.

(d) There is also considerable evidence introduced relating to what might be termed the "many good things" that KRAUCH has done during his life, in an apparent effort to show that KRAUCH is not the type of man who would commit a crime.

We will now proceed to analyze briefly the merits of these defenses and to analyze to the extent necessary the evidence which has been introduced to substantiate these defenses.

a. KRAUCH's claim that he thought rearmament was for defensive purposes. KRAUCH has admitted that he participated in the rearmament of Germany but contends that this was for defensive and not aggressive



purposes (Tr. 5124-5125). In this connection he has put forth the following arguments:

(1) "I never considered the rearmament program of the government in the light of an aggressive war. At that time, general opinion prevailed, and there was a certain political justification for it, that Germany was seriously threatened by Bolshevism. Considering this point of view, in other words I considered rearmament of the Wehrmacht, and the government as a measure for a defensive war".

(2) "I could not possibly be informed about the measures of foreign policy which were perhaps connected with aggressive intent by the Government since I did not belong to the circles to whom Hitler confided his ideas".

(3) "It was another consideration that I considered the waging of war by Germany, on the basis of its geographical position and after the experiences of the first World War, as absolutely untenable".

(4) "Another argument is that a large number of measures, which perhaps have been executed upon my instigation, are absolutely incompatible with the idea of any intended aggressive war".

(5) "Yet another argument is that it was always my attitude that the Four Year Plan represented a plan which would have even come into being if there was no rearmament whatever. Its main purpose, and you may even say its only purpose in the final analysis, was the settlement of the currency balance".

In connection with point (1), no evidence has been introduced by the defense to give any substantial support to the contentions that any of these defendants believed that Germany's rearmament was for defensive purposes. There has been no proof introduced to show that any of these defendants had any reason to believe that Germany would be attacked by any other nation. As an example, although the defendant KRAUCH said that Goering and Hitler had stressed the danger from the East in their speeches in December 1936 (Tr. 5137), at the same time the defendant KRAUCH stated that the West Wall had been constructed for defensive purposes (Tr. 5114). When questioned as to how he reconciled

that a West Wall was erected for "defensive purposes" and that no comparable wall was erected in the East the defendant KRAUCH spoke of the possibility of a two-front war (Tr. 5446-5447). The defendant KRAUCH thus revealed what he had in mind when he spoke of a "defensive war". Apparently the defendant KRAUCH as well as the other defendants take the position that if for example Great Britain and France had attacked Germany when Germany took over Czechoslovakia by the use of force, then the war which would have ensued would have been a "defensive war" on the part of Germany. It is this same misconception of what is right and what is wrong in the field of international affairs that is the root of so much trouble today. This idea that might makes right is no more a defense in international affairs than in domestic affairs.

With respect to point (2), namely, that KRAUCH was not informed of all the details of the foreign policy, this argument is fully dealt with in the answer of the prosecution to the defense motion for a finding of not guilty on Counts I and V filed on 5 January 1948.

With respect to point (3), the evidence overwhelmingly indicates that KRAUCH was thinking in terms of a war from as early as 1933 on. If what the defendant KRAUCH means is that he did not want to see Germany actually go to war, this is understandable. The prosecution does not contend that any of the defendants wanted to see a war. They would have much preferred to see Germany and themselves get what they wanted by the threat of force, without being required to actually use that force. Hitler no doubt agreed with them.

With respect to point (4), namely, that KRAUCH took a large number of measures that were incompatible with the idea of war, it is merely necessary to point out the many many measures which KRAUCH took in contemplation of a possible war. The fact that he may have taken certain measures which were not consistent with the outbreak of war at a given time is of no significance. KRAUCH probably hoped that war would not break out when it did and may have taken a few measures based on this hope.

With respect to point (5), that the purpose of the Four Year Plan was a settlement of the currency balance, the evidence is overwhelming as to what the real purpose was and need not be repeated here. The purpose of the Four Year Plan was what Hitler said it was, namely, to make Germany ready for war in Four Years. In this connection it may be

noted that the defendant KRAUCH stated on direct examination that the Hitler memorandum merely confirmed what he knew at the time concerning the purpose of the Four Year Plan (Tr. 5083).

b. The Argument of Duress or Compulsion in Use of Slave Labor:

KRAUCH made an effort to claim that it was impossible for industry to refuse to employ foreign workers and concentration camp inmates (Tr. 5381-5382). Speaking of the use which he made of slave laborers to carry out his program he pointed to the fact that his country was at war; many Germans were being killed; he thought it his duty and he wanted to stay on the job (Tr. 5193-5200). The witness Milch claims that KRAUCH's refusal to take a government job in peace time would have meant that he could not have worked for Farben either; and that in war time such a refusal would have been considered as sabotage (Tr. 5311). Milch also claimed that industry could not have refused to employ foreign workers and concentration camp inmates without being subjected to punishment (Tr. 5337-5338).

What the argument of duress or compulsion amounts to in this case has been amply dealt with in the prosecution's Preliminary Memorandum Brief (see Part I, pp 104-106) and again and again in this brief. It may be emphasized, moreover, that overwhelming evidence shows that KRAUCH took the initiative and was a driving force in the government's program of slave labor whether in the field of foreign workers, prisoners of war or concentration camp inmates.

c. KRAUCH's Claim that He Did Not Know Conditions of Inmates:

This contention has been adequately dealt with above. It may be added here that KRAUCH himself said on the witness stand "that I felt obliged to see to it that people who had come on my suggestion from foreign countries and were working in Germany now worked according to my ideas and to control that to see to it that it was done" (Tr. 5201). Speaking of his inspection of I.G. Auschwitz, KRAUCH stated that he did this "since I had a certain position and was in charge of a construction site where for the first time concentration camp inmates were being employed.



and I wanted to see how these people were employed and how they were cared for just as I tried to do in the case of foreign workers" (Tr. 5394). If it be true that, as KRAUCH says, he felt a responsibility with respect to foreign workers and concentration camp inmates and took steps to investigate, it is beyond the realm of comprehension to even suggest that he did not find out what was happening in a place where more people were put to death than were killed in World War I or than were killed in World War II (excepting the casualties on the Eastern Front).

d. "The Good Things" Which KRAUCH Has Done: There has been considerable evidence introduced relating to this apparent defense. KRAUCH himself stressed his efforts in the promotion of science, the support of the church, and the support which he says he gave to persecuted Jews. Instances have been cited when KRAUCH is alleged to have prevented certain reprehensible actions from being taken. KRAUCH also testified at length concerning his efforts to improve the conditions of certain foreign workers at Schkopau and Heydebreck (Tr. 5204); and the steps which he took to have a group of Russian scientists brought to Germany with their families (Tr. 5206). He also discussed the efforts which he says he took to help the concentration camp inmates at Wurttemberg (Tr. 5252).

The Prosecution has not tried to prove that everything that KRAUCH did during the twelve year period in question was against the best interests of mankind. We do claim that he did enough during this period to warrant the charge, which we do not make lightly, that he bears a major criminal responsibility for the suffering and death of many, many people.

6. Proposed Findings of Fact With Respect to the Guilt of Carl

KRAUCH.

The evidence has established beyond a reasonable doubt, the guilt of the defendant Carl KRAUCH on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant KRAUCH under each of these Counts, is predicated upon the following facts, which have been established by the proof:

Count I

1. The following activities of KRAUCH, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) KRAUCH's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1933 to 1940; as a member of the Central Committee from 1933 to 1940; as chairman of the Aufsichtsrat from 1940 to 1945; and as Chief of Sparte I from 1929 to 1938.

(b) KRAUCH's activities as an official of the Nazi Government, including his activities as the head of the Research and Development Department of Goering's staff for Raw Materials and Foreign Currency; as head of the Research and Development Department of the Office of German Raw Materials and Synthetics in the Office of the Four Year Plan; as Plenipotentiary General for Special Questions of Chemical Production within the Four Year Plan; and as a commissioner, and finally provisional head, of the Reich Office for Economic Development.

(c) KRAUCH's activities carried on through the instrumentality of Farben, and through his positions in the Government, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means,

such as the stock-piling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. KRAUCH participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedom. KRAUCH knew this for a number of reasons:

(a) KRAUCH knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to KRAUCH that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in KRAUCH's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by KRAUCH and the timing of such activities, establish that KRAUCH knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by KRAUCH at which the aims of the Nazi leaders were expressed, and KRAUCH's own statements on various occasions, are sufficient in and of themselves to establish that KRAUCH had the required state of mind.

(e) KRAUCH's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to KRAUCH; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938,



Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, KRAUCH knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant KRAUCH.

(a) As a matter of Law, even if the facts established that KRAUCH acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KRAUCH acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant KRAUCH knowingly participated in plans to spoliage and in spoliating the chemical industries of occupied countries. These activities of KRAUCH were carried on both through his position in Farben and his position in the Nazi Government.

2. KRAUCH bears a major responsibility for, and knew of, the program of Farben to take over <sup>through force and compulsion</sup> chemical industries throughout Europe. KRAUCH played an especially active role in the plunder and spoliation of property in Norway and Alsace-Lorraine, and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant KRAUCH.

(a) As a matter of Law, even if the facts established that KRAUCH acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KRAUCH acted under duress or coercion in carrying out any of the activities specified above.

#### Count III

(Sections A and C)

1. KRAUCH took the initiative in using force to bring foreign workers to Germany for use as slaves in the German war effort, particularly in Farben plants.

2. KRAUCH took the initiative in suggesting and carrying out a program for the illegal use of prisoners of war in the armament industry and industries directly related to the war effort.

3. KRAUCH took the initiative in obtaining persons who were inmates of concentration camps because of racial, political, or religious reasons, for use as slaves in the German chemical industry, particularly in Farben plants.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of KRAUCH were, to KRAUCH's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

5. KRAUCH continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant KRAUCH.

(a) As a matter of Law, even if the facts established that KRAUCH acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KRAUCH acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. KRAUCH participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. KRAUCH knew that human beings in concentration camps were being exterminated by gassing.

4. KRAUCH either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he

deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

1. The foregoing activities were engaged in by the defendant KRAUCH in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.

2. The defendant KRAUCH, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.



1. Charges in the Indictment

(a) The defendant SCHMITZ is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoilation - constituting War Crimes), Count III (Slave Labor - constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to Commit Crimes against Peace).

(b) A number of document books were submitted and witnesses called in support of SCHMITZ' defense. The defendant SCHMITZ did not take the stand on his own behalf.

2. General Nature of the Evidence Supporting These Charges.

(a) SCHMITZ was a leading member of Farben's Vorstand by 1933 and from 1935 to 1945 he was Chairman of the Vorstand. As Chairman of the Vorstand, he was the head of the governing body of Farben. As Chairman of the Vorstand, SCHMITZ was "first among equals" in the Vorstand; had general supervision of the activities of Farben; was responsible for the general representation and direction of the interests of Farben; directed the meeting of the Central Committee; acted as Chairman of Vorstand meetings; regularly took part in the meetings of the TEA, KA and other committees and commissions of Farben; cooperated with the Chairman of the Aufsichtsrat and the Working Committee of the Aufsichtsrat in the appointment of members of the Aufsichtsrat and the Vorstand; and exercised the most outstanding single vote in control in all matters of finance in Farben.

(b) In PE 334, an affidavit by the defendant TER MEER, there is incorporated a statement (at p. 27) entitled, "Distribution of Work and Responsibilities of the members of the Vorstand of I.G. Farben and the Titulary Directors", which according to TER MEER was worked out by all the members of the Vorstand in Sarnsberg (except SCHMITZ) which included BUEYERISCH, KUNERIK, KUNER, HOERLEIN, GAJEWSKI, VON SCHNITZLER and TER MEER. In this statement the following comments are made concerning the functions of SCHMITZ as Chairman of the Vorstand:



I. The Chairman of the Vorstand.

From the above statements may be derived the special functions of the Chairman of the Vorstand, Geheimrat Schmitz, as follows:

1. General supervision of the activities of the members of the Vorstand by personal contact with each individual, and regular participation in a number of meetings of committees and commissions; thus, besides directing the meetings of the Z.A., Geheimrat Schmitz regularly took part in the meetings of the Commercial and Technical Committees. Geheimrat Schmitz received the minutes of all important committees and commissions.

2. General representation and direction of the interests of the combine within the I.G. combine itself and in relation to other combines.

3. Cooperation with the Chairman of the Aufsichtsrat and with the working-committee of the Aufsichtsrat (Personnel Committee), which was provided for this purpose by the statutes, for the appointment of members of the Aufsichtsrat (by a general meeting) and of the members of the Vorstand (by the Aufsichtsrat); with regard to the members of the Vorstand, the Z.A. formerly cooperated.

Apart from these functions Geheimrat Schmitz also exercised the top control on finance and balance sheets." (FE 334, p. 28)

(c) KRAUCH and AMEROS have both stated that SCHMITZ attended nearly all of the meetings of the TEA (FEs 338 and 1419). TER MEER has confirmed that SCHMITZ participated in the TEA as Chairman of the Vorstand (Tr. 6777). An examination of the available minutes of the Commercial Committee also indicates that SCHMITZ attended most of these meetings and was kept informed about the developments of all these meetings (FEs 362, 363, 366, 367, 368, 369, 370, 496, 512, 520, 866, 893, 894, 1133, 1564, 1612, 1049, 1069, 1205, 1564, 1622 and 1623). Thus SCHMITZ, as "first among equals" in the Vorstand and with his "top control on finance", was at the vortex of all major developments within Farben. As Vorstand chairman from 1935 onward, SCHMITZ directed, approved or ratified the course of conduct which the firm pursued during this period of 10 years. It is equally clear that SCHMITZ had far more than a general knowledge of the nature of the activities being pursued by the firm during that period of time. The fact that SCHMITZ may not have known about some particular detail of a program which he had initiated, supported

or approved, is unimportant. As indicated in the Preliminary Memorandum Brief and in this Final Brief, we do not contend that any person could know at any one time all the detailed ramifications of the execution of all adopted policies. It may be that on occasion a specific act was taken in the carrying out of a policy approved by the Vorstand which was not contemplated in the original program. But where, as here, the execution of a program extends over a relatively long period of time, those who were responsible for initiating that program and for carrying it out, cannot claim candidly that they did not know the significant features of what was happening during the execution of the concern's program.

(d) Through the instrumentality of Farben and through the positions which he held in the financial, industrial, economic and political life of Germany, SCHMITZ bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression; and for participating in the use of foreign laborers as slaves; the illegal use of prisoners of war, and the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort. These general charges against the defendant Schmitz were proven beyond any reasonable doubt by the evidence which has been introduced in this case.

(e) The Tribunal is requested particularly to consider Part II-A of this brief for a particularly enlightening discussion of SCHMITZ' active role as Vorstand chairman in preparation for aggression. And in setting the specific acts mentioned below in their year-by-year context, the Tribunal is asked to recall the year-by-year discussion of developments in Germany and in Farben in the section above on KRAUCH (Part VI-B).

3. SCHMITZ' positions from 1933 to 1945: The positions which SCHMITZ held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in PEs 314,



315, 316 and 512. The following positions held by SCHMITZ during these years are of special significance:

- (a) SCHMITZ was a full member of the Vorstand since 1925.  
(From 1925 on he was a full member of the Working Committee).
- (b) In 1930, from its formation, until 1945, SCHMITZ was a member of the Central Committee of the Vorstand.
- (c) In 1935 SCHMITZ became Chairman of the Working Committee and the Central Committee. When the smaller Vorstand took the place of the Working Committee in April 1938, SCHMITZ became chairman of the Vorstand.
- (d) In 1933 SCHMITZ was elected to the Reichstag. In this same year he also became Chairman of the Vorstandsrat of the House of German Art.
- (e) SCHMITZ was Chairman of the Committee on Currency of the Reichsbank, and a member of the Advisory Committee of the Reich Group Industry.
- (f) In 1938 SCHMITZ was appointed Military Economic Leader. From 1937 through 1939 he was Chairman of the Board of Directors of the American I. G. Chemical Corp., New York. From 1929 to 1940 he was Chairman of the I. G. Chemie, Basle, Switzerland. In 1939 he was appointed member of the Verwaltungsrat for the Bank for International Settlements.

4. Certain Activities of SCHMITZ from 1933 to 1945.

a. COUNT I - CRIMES AGAINST THE PEACE

THE YEARS 1933 AND 1934

(1) SCHMITZ and Bosch were among these industrialists who went to see Hitler early in 1933 and began discussions with Hitler's advisers. (PE 59). The meetings held with representatives of DuPont in July 1933 were attended by SCHMITZ. It was indicated in these meetings that industry had to support the Nazi Government in order to prevent chaos. The situation in Germany was discussed, including the attitude of the Government towards the Jews. The plans of Farben to greatly increase their production of synthetic gasoline were also discussed (PE 57). In 1933

the Circle of Economic Leaders was established consisting of representatives of industry, including the defendants SCHMITZ, ILGNER and GATTINEAU (PE 26). Contributions to the Adolf Hitler Fund, including contributions in support of the S.A., began in 1933 with the approval of SCHMITZ (PEs 26, 74 and 77), and in 1933 SCHMITZ became a member of the Reichstag and Chairman of the Vorstandsrat of the House of German Art.

(2) Beginning in 1933 and extending for a period of 12 years, Farben made contributions through the Office of the Central Committee amounting to 40,000,000 Reichsmarks to the Nazi party and Nazi party organizations (PEs 78, 79 and 80). SCHMITZ bears a major responsibility for these contributions inasmuch as he was a member of the Central Committee from 1930 on; Chairman of the Central Committee from 1935 on; and the top man in Farben on financial matters during this period. Payments for propaganda purposes (including payments to Ivy Lee) were accounted for by the defendant ILGNER with the defendant SCHMITZ and the Central Committee (PE 26).

(3) In 1933 Farben received an order from the Luftwaffe to build a magnesium plant with a capacity of 12,000 tons a year. The negotiations for the construction of the plant by Farben were carried on with the Luftwaffe under blanket approval from SCHMITZ (PE 98 and Part II, sub D of this brief). The contracts between Farben and the Reich concerning the production of gasoline which was entered into in 1933, was signed on behalf of Farben by Bosch and SCHMITZ; and thereafter submitted to Hitler (PEs 92, 93 and 94). In 1933 Farben took measures to counteract the hostile propaganda against Germany abroad, particularly in the United States. SCHMITZ participated in the hiring of Ivy Lee and personally paid him his "fee" (PEs 26 and 776).

(4) SCHMITZ was present at meetings of the TEA and the Vorstand at which air raid protection measures were discussed, in 1933 and 1934 (PEs 173 and 182).

#### THE YEARS 1935 AND 1936

(5) It was the Central Committee which decided in September 1935 to create the Vermittlungsstelle W in order to provide a more systematic

cooperation within Farben in the current development of military economy and to assure central treatment in the questions of military economy, military policy and military technique (PE 101). It is to be noted that SCHMITZ became Chairman of the Central Committee of the Vorstand in July 1935. In this same year, 1935, it was decided that all foreign agreements should be cleared with the Military Economic Staff of the Wehrmacht. These meetings were discussed with SCHMITZ (PE 1016).

(6) In May 1936 Goering held a crucial meeting of his Advisory Committee concerning questions of raw materials. This meeting was attended by the defendant SCHMITZ. Goering emphasized the dependence of the Army and Navy on oil. It was pointed out that the waging of war depended on the oil program. Goering declared that "rubber is our weakest point"; and inquired as to what kind of program for synthetic rubber production was being planned. Keppler replied that factories were under construction and that technical improvements were expected and that there was special hope for certain American processes. The minutes of the meeting then state, "Director Dr. SCHMITZ agrees to this method, adopted after thorough discussion in order to utilize experience in enlarging factories" (PE 400). KRAUCH and SCHMITZ began their close contacts with Goering in 1936 when Goering began to challenge Schacht's position, particularly in connection with the activities of the Raw Materials and Foreign Exchange staff in war preparations. These contacts between Goering and SCHMITZ and KRAUCH continued and SCHMITZ almost invariably appeared with KRAUCH on congratulatory visits on Goering's birthday, at which time they presented Goering with substantial gifts (PEs 403, 484 and 485). About twice a week KRAUCH visited SCHMITZ in Berlin beginning with the year 1936, the year when KRAUCH began spending most of his time in Berlin (Testimony of Paula Ester, Secretary of the defendant SCHMITZ, Tr. 11186). It was only natural that KRAUCH would keep the chief executive of his concern advised about major developments in the chemical field, where KRAUCH played such a dominant role from the government's side after 1936.

(7) It was in July 1936 that KRAUCH requested a report from Farben on their past and present contracts with the Reich, including the Leuna



contract entered into during World War I (PE 679). And in 1936 negotiations were begun with Standard Oil for the stock piling of 20,000,000 dollars worth of gasoline. These negotiations were undertaken at the instigation of the German authorities. SCHMITZ and KRAUCH participated (PE 731).

(8) In October 1936 Farben sent a letter (copy to SCHMITZ) to Colonel Thomas, Chief of the Military Economic Office, concerning the erection by Farben of a small magnesium factory in England and indicating that the matter had already received the approval of the Reich War Ministry. The letter referred to a Central Office created under the supervision of Colonel Thomas to be responsible for all questions concerning contracts and patents for all branches of the Wehrmacht (PE 1010). It will be noted that the erection of this small magnesium factory in England meant not only that the erection of an independent factory in Canada was rendered less likely, but also that Farben maintained a certain control over the production of magnesium in the British Empire. Furthermore, in the event of war, it would mean that Farben knew the exact location, capacity, etc., of one of England's main magnesium plants. In this connection, compare Farben's conduct in constructing a synthetic gasoline and nitrogen factory in Billingham, England, in 1935, and then advising the Military in May 1939 concerning the location, etc., of such plant in order that it could be put out of action in the event of war (See Tr. 5449, 5450).

(9) In October 1936 at a meeting of the Aufsichtsrat of Farben, SCHMITZ stressed the great tasks of Farben with regard to raw materials in the Four Year Plan as announced by Hitler in Nurnberg (PE 530). The role which Farben performed in carrying out these tasks is no better expressed than in a letter which the defendant KUEHNE sent to the defendant SCHMITZ in October 1941 and in which he concluded (PE 2064):

"At the conclusion of his long lengthy statement, regarding which I hope I will once more be able to report to you in person, Herr Funk said the following: He felt compelled yet to refer to the remarks made by Herr Fleiger and by me. Naturally, coal, iron, guns and procurement of materials were necessary for waging war and the importance of the industries must

not be underestimated. However, one thing he must establish, without the German I.G. and its achievements, it would not have been possible to wage this war. You can imagine I was overjoyed and expressed to Herr Funk my thanks in the name of the whole I.G."

#### THE YEARS 1937, 1938 AND 1939

(10) SCHMITZ was a member of the Aufsichtsrat of DAG since 1926 and became Chairman of the Aufsichtsrat in 1938 (PEs 325, 326 and 50). The activities of DAG, including its complete dependence upon and domination by Farben, are more fully developed in Part II-E of this brief.

(11) Indicative of the extent to which Farben was anxious to place key men in the Government in an effort to further their interests in line with the interests of the Nazi Government is a letter from the defendant KUEHNE to the defendant SCHMITZ in August 1937. KUEHNE proposed to SCHMITZ that a man named Bachmann be proposed as leader of the Group Chemistry, stating, "Though an I.G. man, he is not so well-known as an I.G. man that the general public might suspect that I.G. wants to fill that position" (PE 497).

(12) In August 1937, at the suggestion of the defendants SCHMITZ and VON SCHNITZLER, it was decided that periodic meetings of the Commercial Committee should be held in the future concerning questions of an economic character and questions relating to political, economic, and financial policy. SCHMITZ was to be informed of the dates of all meetings (PEs 361 and 362). The Commercial Committee meetings which were held from that date on were frequently attended by the defendant SCHMITZ. In any event it was clear that he was informed of any major decisions that were taken. Many of these Commercial Committee meetings attended by SCHMITZ dealt with mobilization questions (PE 250). These Commercial Committee meetings not only dealt with mobilization projects but with all aspects of Farben's preparation for war, including the sending of I. G. liaison men abroad; problems of foreign exchange and imports in the Four Year Plan; the cooperation of Farben personnel abroad with the foreign organizations of NSDAP; military training of employees; collaboration between Farben and the military; propaganda, etc. (PEs 363, 366, 367, 371, 893, 894 and 1612).

(13) The defendant SCHMITZ attended the highly significant Commercial Committee meeting of 11 March 1938, held one day prior to the Nazi invasion of Austria. The minutes of this meeting indicate that there were discussions about mobilization; cooperation with the Nazi party abroad; the necessity of persons traveling abroad to contact Farben liaison agents in order to keep them informed and to receive information; the necessity of having on hand in the greatest possible number of countries Farben liaison agents capable of supplying information. The minutes also state that the methods of selection of these agents abroad had been such as to guarantee confidential treatment of such matters (PE 893). The minutes of this meeting, as significant as they appear on the surface, reveal only a small part of what was really discussed at that meeting. The defendant HAEFLIGER dictated a memorandum five days later in which he set forth in some detail the discussions at this meeting of 11 March, attended by the defendants SCHMITZ, SCHNITZLER, HAEFLIGER, ILANER, and HANN. In this memorandum, the defendant HAEFLIGER states that the Farben leaders had been advised that mobilization in Bavaria was in full swing and that instructions had been received to supply all gas stations in Bavaria and other parts of southern Germany toward the Czech border. The defendant HAEFLIGER states, "We were not certain whether simultaneously with the march into Austria, which to us was already an established fact, there would not also take place the 'short thrust' into Czechoslovakia with all the international complications which would be kindled by it." The defendant HAEFLIGER then describes the steps which were taken at this meeting in the light of this news, including a telephone call which he made to Paris to advise a Farben man there, "to depart too early rather than too late." The defendant HAEFLIGER also states that the conferences on mobilization took on highly significant features stating, "we realized suddenly like a stroke of lightning from a clear sky that the matter which one had once treated more or less theoretically could become deadly serious" (PE 2014)..

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(14) This document reveals in the clearest details the true nature of Farben's preparations for war and the extent to which the defendants

knew what they were doing. The story about the so-called elections in Austria becomes rather farcical in the light of the clearest possible proof that these defendants knew that what happened in Austria was accomplished by the force of arms. This document reveals that not only were these defendants aware that the war machine they were building would be used to take from the peoples of other countries their land, their property and their personal freedom, but they also apparently had rather exact information as to what countries would be hit first.

(15) The Prosecution has introduced an overwhelming mass of evidence in this case concerning the role which the defendants played in preparing Germany for aggressive war and concerning the state of mind with which they participated in this preparation. In this mass of evidence there are a relatively small number of documents which within themselves are so clear in their meaning that even without the rest of the evidence they are enough to establish the guilt of these defendants beyond any reasonable doubt. By way of example, let us look at only two exhibits, PEs 2064 and 2014. The first is KUEHNE's report to SCHMITZ reporting that the Reich Minister of Economics, Funk, had publicly stated that without Farben "it would not have been possible to wage this war." The second is HAEFLIGER's memo on the Commercial Committee meeting of 11 March 1938, just discussed. These two documents give in a few words an underlying basis for establishing the guilt of these defendants with respect to the charges contained in Count I of the indictment. From PE 2064 we see the recognition of the fact that Farben made it possible for Germany to wage war and that without Farben, there would never have been a World War II. In PE 2014 we see the clearest proof (a contemporaneous memorandum written by one of the defendants) that these defendants not only performed activities indispensable to waging of war by Germany but also that they did so knowing that they were preparing Germany for aggression against her neighbors.

(16) The Commercial Committee meetings attended by SCHMITZ also dealt at length with the program of Farben to take over the chemical industries of the occupied countries after each aggression. On 24 May 1938 a meeting of the Commercial Committee was held with SCHMITZ present. In

addition to discussion of mobilization questions, Frank-Fahle reported on certain discussions concerning Czechoslovakia which had been held on 17 May. This meeting of 17 May and Frank-Fahle's comments thereon are more fully developed in the Prosecution's Preliminary Memorandum Brief, pages 96 and 97. After this a discussion of the situation and the measures to be taken, particularly with regard to the Aussig Verein, was held. It was stated that "the Plenipotentiaries for Hungary and Czechoslovakia will be appointed later" (PEs 1612 and 833). A Commercial Committee meeting held in June 1938, discussed the acquisition of the Austrian chemical plants and it was decided that Ilgner would act as the central authority for Farben concerning Farben interests in Austria (PE 367). On 21 September 1938 the Vorstand was advised by the Commercial Committee of the details of the chemical plants in Czechoslovakia (PE 1043). On 22 September, Farben, with the approval of SCHMITZ and the Central Committee, made a contribution of 100,000 RM for the Sudeten German Free Corps, an auxiliary military organization charged with maintenance of disturbances and clashes (PEs 834 and 1041). On 23 September 1938, the Nazi authorities had already agreed upon the appointment of WURSTER and KUGLER as commissars for the Aussig plants (PE 1044). These defendants were indeed taking for granted the success of threats of force. On 29 September, the day the Munich Pact was signed, the defendant KUGLER was appointed commissar for the maintenance of the plants (PE 1045). The next day the defendant SCHMITZ wired Hitler that he was impressed by the return of Sudeten Germany to the Reich "which you, my Fuehrer, have achieved" and that "Farben puts an amount of one-half million RM at your disposal for use in the Sudeten German territory" (PE 1046). At a Commercial Committee meeting on 7 October 1938, with SCHMITZ present, VON SCHMITZLER reported on the action taken in Czechoslovakia concerning the Aussig-Falkenau plants and ILGNER reported on the acquisition of the Skoda-Wetzlar shares in Austria (PE 894). In this same meeting there was a discussion of the press, anti-dumping, Argentine propaganda, and the intensified policy of German re-emigration.



(17) The affiant Jacobi has stated that after the invasion of Austria, Farben asserted that Austria was now part of Germany and should be treated by the International Cartel as belonging to the domestic German market. He further states that in the renewal of the cartel agreement in July 1938, a clause was inserted which was drawn in such a way as to take care of the situation which arose after the Czechoslovakian invasion. In 1938 the German Nitrogen Syndicate advised the International Cartel that it could not deliver sufficient nitrogen to meet its quota. Although the reason given was that there was no surplus available for export, it was clear at the time that the real reason was that German nitrogen production was being diverted principally for synthetic gasoline and explosives (PE 611).

(18) The Central Finance Department of Farben, headed by the defendant SCHMITZ, handled the transaction whereby Farben "borrowed" 500 tons of tetra ethyl lead from the Ethyl Lead Export Corporation in the United States in July and August, 1938. This purchase was made at the request of the Reich Air Ministry on the direct orders of Goering (PEs 732 and 733). This was after SCHMITZ heard Goering say with respect to oil and gasoline that "all preparations must be made for the A Case so that the supply of the wartime army is safeguarded" (PE 400). This transaction occurred while KRAUCH was working on the new Rush Plans (PEs 442 and 445).

#### THE WAR YEARS

(19) The contribution of SCHMITZ to the waging of aggressive war once it was under way is principally outlined immediately below under Counts II and III. But first a few reminders of other evidence of SCHMITZ' participation once actual war broke out.

(20) A report issued by the U. S. Department of Justice on the espionage activities of Chernyco, "the American economic intelligence arm of I. G. Farben," gives certain information concerning SCHMITZ' connection with these activities in the U. S. The report states, among other things, "the extent of family relationship among the chief personnel of Chernyco and those of I. G. Farben is impressive. Rudolph Ilgner, in addition to being the brother of Max ILGNER, was a nephew of Hermann SCHMITZ, Chairman

of the Farben Executive Committee. Dietrich A. Schmitz, the nominal owner of the stock of Chemnyco from 1935 to 1939, was the brother of Hermann SCHMITZ, uncle of both Max and Rudolph ILA-NER, and brother-in-law of Albert Gadow, Farben representative in Switzerland and chief figure in I. G. Chemie. Walter Duisberg, a director and officer of Chemnyco \* \* \* was the son of Carl Duisberg" (PE 875). During the war intelligence activities abroad and counter-intelligence activities within Germany, undertaken in cooperation with the OKW, were approved by the defendant SCHMITZ (PE 917 and 925).

(21) Contributions by Farben to the Himmler Circle of 100,000 RM each year, beginning with Christmas 1941, were made by the defendant SCHMITZ (PEs 1585 and 1594). The defendant SCHMITZ knew that BUEHLEFISCH was a member of the Himmler Circle (PE 512). Krauch testified that at Christmas of 1941, SCHMITZ spoke to him about the first contribution to the SS of 100,000 RM and told him that it was for a charitable purpose, namely, to take care of the widows and orphans of SS members (Tr. 5158). He also testified that SCHMITZ told him the contribution was made to help Arthur Weinberg (a former Jewish colleague in the Aufsichtsrat) get out of a concentration camp (Tr. 5158). He denied that there was any connection between this contribution and the friendly relations established with the SS relating to securing concentration camp inmates from Auschwitz. The story about paying the SS to get Weinberg out of the concentration camp is untrue, because during Christmas of 1941, Weinberg was a free man, and was only sent to the concentration camp on 2 June 1942, after the contribution was made (Tr. 13066).

(22) The study made by Farben scientists indicating to what extent Farben benefited in a military way through her arrangements with the Standard Oil Company of New Jersey was sent to the defendant SCHMITZ among others (PE 994).

#### b. COUNT II - PLUNDER AND SPOLIATION

(23) As "primus inter pares" within the Farben Vorstand and as member of its Central Committee, defendant SCHMITZ had authorized, and was

kept constantly advised of, Farben's spoliative activities after Germany had embarked on her policy of belligerent and aggressive occupation of the territory of other people. He frequently attended the meetings of Farben's Commercial Committee which was particularly a forum for considering Farben's new expansion and foreign matters. For example, SCHMITZ was present at the Commercial Committee meeting held in September 1941, at which ILGNER reported on the setting-up of the Southeast Committee with ILGNER as chairman. The Southeast Committee was divided into sub-committees for different countries, including Hungary, Roumania, Bulgaria, Greece, Slovakia, Croatia, and Serbia. Activities in Russia, East Asia, U. S., and Latin America were also discussed at this meeting. The continuation of camouflaging in Latin America was considered necessary (PE 496). For excerpts from the Commercial Committee meetings at which SCHMITZ regularly heard reports on developments in France and Norway, see PEs 1622 and 1623. In June 1940, a special meeting of the Commercial Committee was called in SCHMITZ' name to discuss a program for the European chemical industry and specifically to discuss problems on economic policy that were made pertinent "through the speedy development of events of the war in the West." The treatment of England and France, as well as the treatment of the Southeastern area and Italy, was on the agenda (PE 1049). At a Commercial Committee meeting in August 1940, (SCHMITZ present), VON SCHNITZLER reported on the status of "negotiations" concerning France and also reported on Farben interests in Holland, Belgium, and Italy (PE 368). In September 1940, the Commercial Committee discussed activities with respect to the chemical industries of France, Belgium, and Holland. VON SCHNITZLER stated at the meeting that "concerning direct negotiations with the French partners, to begin with one should wait" (PE 369). At this same meeting there was a discussion of the Southeast Europe Committee and reorganization of the overseas branches in South America. At a Commercial Committee meeting in November 1940, (SCHMITZ present), it was reported that a list of chemical industries of Great Britain was being prepared; VON SCHNITZLER reported on negotiations in Wiesbaden and Paris; MANN reported about negotiations with Rhone-Poulenc; and HAEFLIGER reported on the magnesium question, the nickel VI



deposits in Finland, and Dr. Berkheim's trip to Russia (PE 866). At the Commercial Committee meeting of March 1941, (SCHMITZ present), ILGNER reported on the light metals project in Norway (PE 1205). The Commercial Committee meeting of July 1941, discussed negotiations with respect to Francolor, the situation in Italy, Croatia, and Greece; nitrogen project in Spain; Southeastern Europe, Russia, Eastern Asia, Africa, and the U. S. (PE 370). Apart from his over-all participation which applies to all cases of Farben's spoliation, defendant SCHMITZ played a particularly active part in the exploitation and plunder of Norway.

#### POLAND

(24) Following the invasion of Poland, Farben plans in Poland were discussed at the Commercial Committee meeting of 20 October 1939 (SCHMITZ present). BUSTEFISCH was commissioned to see Fleiger concerning the collaboration between Farben and Hermann Goering Works in Poland (PE 1133). Defendant SCHMITZ attended the Vorstand meeting of 8 November 1939. The minutes, which are co-signed by him (PE 2120), show the concentrated and coordinated efforts made by Farben at that time to penetrate conquered Poland (compare brief on defendant JURSTER's responsibility, Part III-T, infra). In the same meeting it was also reported that it is intended to organize a buffer company for the operation of the dyestuffs factory Boruta.

#### SOVIET RUSSIA

(25) Defendant SCHMITZ participated actively in the organization of one of the so-called Monopoly Corporations East, the Chemie Ost G.m.b.H. He attended the Commercial Committee meeting of 4 November 1941 where it was "decided that Chemie Ost G.m.b.H. shall be founded" (PE 1564). In the same meeting, "after a detailed discussion of the matter," it was also decided to set up a Liaison Office for the East with defendant KANN at its head. As a member of the Vorstand, defendant SCHMITZ received de Haas' report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like

Farben" were not to be excluded from participation in the "reconstruction" in the East (PE 1175).

FRANCE (ALSACE-LORRAINE)

(26) SCHMITZ was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine (Strasbourg, Merlenbach and Diedenhofen) (PE 2192).

FRANCE (FRANCOLOR)

(27) All members of the Commercial Committee were invited in the name of defendant SCHMITZ to be present at the meeting of 24 June 1940 where the New Order program for Europe's chemical industry was to be discussed (PE 1049). Defendant SCHMITZ attended the Commercial Committee meetings in which the Francolor case was being discussed; among others, meetings of August 1940 (PE 1622); of September 1940 where the Vorstand members present, among them SCHMITZ, "agreed that concerning direct negotiations with the French partners, to begin with one should just wait" (PE 369); of November 1940, and of February, March, April, July, and September 1941 (PE 1622). As member of the Vorstand, SCHMITZ received the minutes of the Wiesbaden meetings with the French on 21/22 November 1940 (PE 2195). He was also especially advised by VON SCHNITZLER on 21 November 1940 (PE 2193). The individual steps taken by Farben in this case of spoliation and the result achieved have been reviewed in our Preliminary Memorandum Brief, Part II, No. 29 seq., and in this brief, Part III-C, supra.

FRANCE (RHONE-POULENC)

(28) Here again, defendant SCHMITZ was continually kept informed by way of Commercial Committee meetings (PE 1622) and Vorstand meetings (PE 1270).

NORWAY

(29) In his dual capacity of a leading member in the Farben Vorstand and also as a board member of Norsk-Hydro (Tr. 10739), defendant SCHMITZ

was particularly interested in the spoliation of Norway. When defendant HAEFLIGER was confronted with the problem of the giant new investments in Norway for the strengthening of the German Air Force, he "discussed the fundamental questions with BUERGIN and Moschel as well as with SCHMITZ. ... SCHMITZ withheld his own comments until he had discussed matters with KRAUCH" (PE 2000). As to the further development, reference is made to the Preliminary Memorandum Brief, Part II, No. 26, and to this brief, Part III-B, supra. The steps taken by Farben in order to participate on the largest scale in the light metal project for Norway appear therefrom. Defendant SCHMITZ was continually advised of, and consulted on, the development (PEs 586, 1193, 1200, 1201, 1204, 1205, 1623, and 1208. All but the last exhibit are contemporaneous documents).

(30) As to the increase of Norsk-Hydro's capital stock by which the French stockholders lost their majority, defendant SCHMITZ, in the words of HAEFLIGER, "held all the strings in his hands" (PE 2000). On 7 May 1941, defendant HAEFLIGER was able to report to the members of the Chema:

"During a conference held in Berlin on Wednesday, in the presence of Ministerialdirector Cejka from the Reich Air Ministry (RLM), Dr. Koppenberg and Geheimrat SCHMITZ, and which I also attended, full agreement was also reached on the steps to be taken with regard to the acquisition of the Norsk-Hydro shares" (HAEFLIGER Exh. 37).

As to the result achieved, reference is made to the Preliminary Memorandum Brief, Part II, No. 27, and to this brief, Part III-B, supra.

#### c. COUNT III - SLAVERY AND MASS MURDER

(31) Through his position as Chairman of the Vorstand of Farben, SCHMITZ not only played a leading role in, and had full knowledge of Farben's preparations for aggressive war and its program to reap the spoils of this war by taking over the chemical industry of Europe; but SCHMITZ also played a leading role and had full knowledge of Farben's activities in connection with the use of slave labor, including foreign labor, prisoners of war, and concentration camp inmates as tools in the furtherance of Germany's war effort and for the benefit of Farben. On



26 October 1939, the decree introducing compulsory labor in Poland was issued (PE 1298). In July 1941, at a meeting of the Aufsichtsrat of Farben, SCHMITZ stated, "the factories have taken all efforts to get the necessary workers; by utilizing foreign workers and prisoners of war the demand could be generally met" (PE 1312). On 20 February 1942, Himmler issued a decree on the recruitment of manpower from the East. This decree dealt with special measures for the forced recruitment of Eastern workers and made provisions for guarding Eastern workers and for disciplinary measures. It was provided that severe cases would be strictly dealt with, including transfers to concentration camps or "special treatment". "Special treatment" meant hanging (PE 1300). At a meeting of the Aufsichtsrat in May 1942, SCHMITZ reported about the activities of Farben during the year 1941 and the first quarter of 1942, stating in part, "the lack of workers; especially skilled workers, had to be compensated for by longer working hours and the employment of women, foreigners, and PW's" (PE 1313).

(32) SCHMITZ was kept informed and was consulted with respect to the employment and treatment of foreign labor, prisoners of war, and concentration camp inmates. Defendant Carl KRAUCH has stated that the welfare of the foreign workers employed by Farben was the responsibility of the Vorstand and that Farben representatives also acted as representatives of KRAUCH's office in France, Belgium, Italy, and Yugoslavia (PE 491). KRAUCH gives several instances of improper conditions which he observed in Farben plants including Heydebreck, Schkopau, and Gendorf. He specifically mentions the high rate of sickness among the Easterners and insufficient sanitary conditions. KRAUCH says he discussed these matters with SCHMITZ, SCHNEIDER, and AMBROS. He states that he reported to SCHMITZ about his many visits to Farben plants and informed SCHMITZ of his suggestions for improvements (PE 1333). The defendant BUECHER has admitted that from 1941 on any plant requesting laborers knew that they could be filled only by foreign laborers, prisoners of war, and concentration camp inmates (PE 1334). Defendant SCHNEIDER states that the minutes of the Advisory Council (set up under the National Labor Act to

deal with labor problems in big concerns) were distributed to SCHMITZ as well as to all participants of the meetings (PE 1329). At one of these meetings in March 1941, SCHNEIDER reported concerning the replacement of drafted Farben employees with over 12,000 foreign laborers and 2,000 prisoners of war (PE 1350). SCHNEIDER says that he reported to the Vorstand on labor matters and the Vorstand never disagreed with his decision (PE 1328). At a meeting of the Farben Vorstand in October 1942, the defendant MANW, at the request of the defendant SCHMITZ, reported to the Vorstand concerning Sauckel's reading of an elaborate paper on the labor situation including the treatment of foreign workers, pay, housing, etc. before the Board of the Reich Group Industry. At this meeting Struss then gave the usual survey of the entire credit situation, expenditures; and the labor situation, with figures concerning the number of workers (PE 1322). Struss has stated that in giving these surveys before the TEA and the Vorstand, charts were used which were hung on the wall and which indicated precisely the numbers of foreign workers, prisoners of war, and concentration camp inmates which were being used in Farben plants (PE 1318). Examples of the charts which were used in these TEA and Vorstand meetings are found in PEs 1557, 1558, 1559, and 1560.

(33) SCHMITZ knew of and approved, and through his position as Chairman of the Vorstand, bears a major responsibility for the employment of concentration camp inmates at I. G. Auschwitz (PEs 1419, 1420 and 1421). On 18 February 1941, after a series of conferences between KRAUCH and Farben representatives, an order was issued by Goering to Himmler at KRAUCH's request, stating that in order to build a Buna plant at Auschwitz at the highest possible speed, certain measures would have to be taken to provide labor. These measures included expelling Jewish people to make way for Farben personnel and making available the largest possible number of inmates from the adjacent concentration camps, the number estimated at between 8 to 12 thousand. Goering requested that he be informed immediately of any orders which should be jointly issued by Hitler and KRAUCH (PEs 1417 and 2199). Four days later, on 22 February 1941, the defendant TER MEER sent a letter to the Reich Ministry of Economics, with a copy to the

defendant SCHMITZ, concerning the construction of a Buna plant in Auschwitz. In this letter TER MEER points to the excessive costs and risks in connection with the Auschwitz plant and requests that Farben be given certain privileges, including the right to include the amount of the excess cost in the current sales price of Buna (PE 1421).

(34) AMBROS mentions in direct examination that he could not have built a large Buna factory, disposing of hundreds of millions of Reichsmarks, if the project was not cleared with SCHMITZ and the Vorstand (Tr. 7830). In an affidavit (PE 1419) the defendant AMBROS states:

"My superior next to TER MEER was the chairman of the Vorstand, Geheimrat Hermann SCHMITZ. . . Fritz TER MEER and I advised TEA of this assignment (Auschwitz) and TEA or the Vorstand really decided to build a Buna plant and a Methynol plant. The I.G. financed the I.G. at Auschwitz because they did not wish to let go their hold on the Buna process.

. . . . .

The cost of building Monowitz amounted to about 5 million marks which were paid by I.G. They were put down as credits as usual. This credit was discussed by the TEA.

. . . . .

After the TEA meeting followed meetings by the Vorstand.

. . . . .

All the members of the Vorstand attended the TEA meetings except the business men and the experts. Sometimes guests were present such as August VON KNIEREM. Geheimrat Hermann SCHMITZ also attended nearly all of the TEA meetings" (PE 1419).

(35) KRAUCH has stated in an affidavit (PE 1420):

"The Executive Board (Vorstand) of the I.G. Farben consisted of the defendant SCHMITZ as chairman, ILAMER, VON SCHNITZLER, VON KNIEREM, Christian SCHNEIDER, TER MEER, AMBROS and BUETEFISCH, etc. could agree on or refuse the erection (Auschwitz).

. . . . .

The Executive Board of the I.G. Farben, especially the members of the Executive Board, SCHMITZ, TER MEER, AMBROS and BUETEFISCH were informed of the employment of concentration camp inmates with the I.G. Buna plant Auschwitz and did not protest."

And the defendant BUETEFISCH stated in another affidavit (PE 1416):

"The amount needed for the huts made available and newly constructed in the camps of the foreign



workstand for the concentration camp Monowitz of I.G. Auschwitz had to be approved by TEA and by the Vorstand Executive Board."

(36) SCHMITZ was present as chairman of the Vorstand at the Vorstand meeting of 25 April 1941 where the Vorstand minutes note that:

"Dr. ALBERS and Dr. BUETEFISCH gave a detailed report on the plans for the new Eastern works at Auschwitz and the extension of the Puerstengrube" (PE 1433).

(37) Major Tilley, British investigator, gave an affidavit in which he states how he found a contemporaneous Auschwitz document in SCHMITZ' house after the war. He states:

"They became highly emotional and declared there was a fourth document in the safe hidden away in the corner. Tearfully they declared that they had not mentioned it before because they were so ashamed of it. This document was a unique collection of photographs of the Auschwitz plant. It was in a wooden inlaid cover and was dedicated to Herman SCHMITZ on his 25th jubilee, possibly as a director of I. G. Farben, and purported to describe pictorially the achievements of the Auschwitz plant . . . Page 1 of the text had a picture of a narrow street in Auschwitz. The accompanying drawings depicted the Jewish part of the population in a manner that was not flattering to them. The legend underneath said 'The Old Auschwitz', or 'As It Was' or 'Auschwitz in 1940'. The second page of the text was entitled 'Planning the New Auschwitz Works.'" (PE 1523)

(38) An analysis of evidence concerning the conditions at I. G. Auschwitz appears in Part IV of this brief. We will not discuss here further evidence showing that the defendant SCHMITZ and the other members of the Vorstand of Farben knew of these conditions. The evidence which indicates that they knew has been discussed in a general way in the Prosecution's Preliminary Memorandum Brief. It is more fully developed in Part IV of this brief.

#### d. COUNT V - CONSPIRACY

(39) The comments made in the individual brief on the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, *supra*, are also applicable to the defendant SCHMITZ.

5. Defenses Interposed by SCHMITZ.

(a) We have discussed the evidence, both prosecution and defense, concerning Farben's DAG subsidiary in Part II-E of this brief. Although most of the evidence on DAG was introduced by Dr. Gierliche, Assistant Counsel for SCHMITZ, and although SCHMITZ was Chairman of DAG's Aufsichtsrat after 1938, we refer the Tribunal to our discussion in Part II-E, supra, to avoid repetition here.

(b) Apart from the defense evidence concerning DAG, SCHMITZ' defense counsel have introduced evidence intended to show:

(1) that Farben was in favor of world economy and did not want to see a war;

(2) the attitude of Bosch and Duisberg toward peace, against anti-Semitism, and against militarism;

(3) the human personality of Bosch and Duisberg;

(4) that "German big industry" did not support the Nazi party;

(5) that Duisberg, Bosch and other leading industrialists were opposed to Hitler's seizure of power and to many of the acts of terror and persecution which Hitler and the Nazis engaged in;

(6) that German industry could not help itself once Hitler came into power; that even as late as 1934, Duisberg "had displayed a manly and clear-cut attitude against Hitler and National Socialism;"

(7) that the contributions which Farben made to the Nazi party and Nazi party organizations should not be taken seriously because Farben made a lot of other contributions for many good causes;

(8) that no member was appointed to Farben's Vorstand who could have been considered to be a representative of the NSDAP;

(9) that it was impossible for an industrialist to refuse to use foreign workers, prisoners-of-war, and concentration camp inmates;

(10) that the defendants promoted scientific research; stood for the independence of research; and through their discoveries and inventions contributed to the technical progress and the welfare of humanity;

(11) that SCHMITZ had a good character and was inclined toward international economic collaboration;

(12) that SCHMITZ had a commendable attitude toward social problems and social welfare;

(13) that SCHMITZ and Farben showed a helpful and sympathetic attitude to old German-Jewish employees;

(14) the establishment of endowment funds by the defendant SCHMITZ for the support of needy students, etc.

(c) It seems hardly necessary to discuss at length any of these alleged defenses. None of them go to the heart of the issues involved in this case with the possible exception of the claim that most industrialists, including Farben, were opposed to certain features of the Nazi program or were forced to cooperate. Here, as in the case of similar defense interposed by other defendants, the defense finds itself in somewhat of a dilemma. On the one hand they introduce evidence tending to indicate that these defendants were actively opposed to certain policies of Hitler and the Nazi Party. Instances are cited where individual defendants had the courage to oppose these policies. On the other hand, they deny knowledge of certain infamous activities for which Hitler's Germany became world famous, and claim at the same time that whatever they did which they knew was wrong, they did only because they had no choice. The real facts of the matter are that these defendants:

(1) knew that what they were doing, violated <sup>the</sup> moral and legal principles of a civilized world;

(2) knew that the choice they were faced with was to either support such a wholesale violation or risk a loss of personal position, prestige, and power;

(3) elected to retain and increase their personal power and position rather than refrain from doing what they knew was wrong.



(d) Leaving on one side the DAG evidence, in our view most of the documents introduced by defense counsel for the defendant SCHMITZ are designed to establish matters which on the whole the prosecution does not believe are relevant to the issues or else are remote to the principal facts developed by the prosecution and bearing on the issues as charged. Since SCHMITZ did not take the stand in his own defense, we shall discuss any of the more substantial defenses in the case of other defendants or in the subject or topic sections of this brief.

6. Proposed Findings of Fact with Respect to the Guilt of Hermann SCHMITZ. The evidence has established beyond a reasonable doubt, the guilt of the defendant Hermann SCHMITZ on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant SCHMITZ under each of these Counts, is predicated upon the following facts, which have been established by the proof:

#### Count I

1. The following activities of SCHMITZ, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) SCHMITZ' activities as one of the leading officials of I. G. Farben, including his activities as a member of the Vorstand from 1933 to 1945; as head of the governing body of Farben from 1935 to 1945; and as Chairman of the Central Committee from 1935 to 1945.

(b) SCHMITZ' activities in other capacities, including his activities as a member of the Reichstag and of Goering's Committee of Experts.

(c) SCHMITZ' activities carried on through the instrumentality of Farben, and through his positions in the Government, included:

(1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of

strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. SCHMITZ participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedom. SCHMITZ knew this for a number of reasons:

(a) SCHMITZ knew that this had been the program of the Nazi Party since the early 1930's, and beginning in 1933 it was clear to SCHMITZ that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in SCHMITZ' position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by SCHMITZ and the timing of such activities, establish that SCHMITZ knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by SCHMITZ at which the aims of the Nazi leaders were expressed, and SCHMITZ' own statements on various occasions, are sufficient in and of themselves to establish that SCHMITZ had the required state of mind.

(e) SCHMITZ' state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to SCHMITZ; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland

and each succeeding country, SCHMITZ knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant SCHMITZ.

(a) As a matter of law, even if the facts established that SCHMITZ acted under duress or coercion, this would be no defense.

(b) The facts do not establish that SCHMITZ acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant SCHMITZ knowingly participated in plans to spoliate, and in spoliating, the chemical industries of occupied countries.

2. SCHMITZ bears a major responsibility for, and knew of, the program of Farben to take over chemical industries throughout Europe. SCHMITZ played an especially active role in the plunder and spoliation of property in Norway and France.

3. The alleged defense of duress or coercion is not available to the defendant SCHMITZ.

(a) As a matter of law, even if the facts established that SCHMITZ acted under duress or coercion, this would be no defense.

(b) The facts do not establish that SCHMITZ acted under duress or coercion in carrying out any of the activities specified above.

#### Count III (Section A and C)

1. SCHMITZ knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.



3. SCHMITZ took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of SCHMITZ were, to SCHMITZ' knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

5. SCHMITZ continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

6. The alleged defense of duress or coercion is not available to the defendant SCHMITZ.

(a) As a matter of law, even if the facts established that SCHMITZ acted under duress or coercion, this would be no defense.

(b) The facts do not establish that SCHMITZ acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. SCHMITZ participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. SCHMITZ knew that human beings in concentration camps were being exterminated by gassing.

4. SCHMITZ either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

1. The foregoing activities were engaged in by the defendant SCHEMITZ in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

2. The defendant SCHEMITZ, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.

1. Charges in the Indictment. The defendant von SCHNITZLER is indicted under Count One (crimes against peace), Count Two (plunder and spoliation - war crimes), Count Three (slave labor - war crimes and crimes against humanity), and Count Five (conspiracy to commit crimes against peace).

2. General Nature of the Evidence Supporting These Charges. Von SCHNITZLER bears a major responsibility for the activities of Farben and of the Economic Group Chemical Industry during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, von SCHNITZLER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant von SCHNITZLER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant von SCHNITZLER sets forth certain selected highlights in the activities of the defendant von SCHNITZLER and shows the general nature of the broad field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. Von SCHNITZLER's Positions From 1933 to 1945. The defendant von SCHNITZLER was the first commercial leader of Farben throughout the





Nazi regime, with the possible exception of the defendant SCHMIDT who was "primus inter pares" of all the Vorstand members from 1935 to 1945. As the first commercial Vorstand member of Farben, von SCHNITZLER throughout the Nazi era held appropriate high positions in Farben, in the Economic Group Chemical Industry, in numerous German and foreign corporations, and in numerous Reich agencies of one kind or another. The certificate concerning his positions (PE 1621) shows that von SCHNITZLER held a dozen jobs which no one could have continued to hold during the Nazi regime unless he was regarded by the Nazi leadership as one of the most eligible and able contributors to National Socialist economy during these 12 black years of German history. From just after the merger of Farben in 1926 until 1945, von SCHNITZLER was a member of the Vorstand and chairman of the "mixed" Dyestuffs Committee. From 1930 until 1945 he was a member of the Central Committee of the Vorstand and chief of one of the four great Sales Combines of Farben, namely, the Sales Combine Dyestuffs (see par. 3 of PE 320 which von SCHNITZLER confirmed in par. 1 of his affidavit, PE 319). From 1937 until 1947, von SCHNITZLER was chairman of the Revised Commercial Committee and plant leader (Betriebsfuhrer) of the Frankfurt headquarters of Farben (latter position shown by par. 17 (g) of PE 320 and by PE 1324). From 1934 until 1945 he was a member of the Greater Advisory Council of the Reich Group Industry. In the Reich Group Industry he was chairman of the Permanent Committee for Exhibitions and Fairs (1934 to 1945) and chairman of the Committee for Economic Propaganda of German Industry (1935 or 1936 until 1945). In the Economic Group Chemical Industry (more significant than the Reichsgruppe in this case), he was the chairman of this organization from 1935 until 1941, and from 1934 until 1941 he was a member of the Smaller Advisory Council of this organization. In these positions he was thus being closely connected with Klaus Ungewitter, who was both the business manager of the Economic Group Chemical Industry and the head of the Supervisory Office Chemistry of the Reich Ministry Economics (stipulation at Tr. 13322). From 1935 until 1945 he was chief of the Technical Group 16 for Tar Dyes and Dye Intermediates in the Economic Group Chemical Industry. Von

SCHNITZLER was a member of the Storm Troops (SA) of the NSDAP from 1934 until 1945, receiving the rank of Captain in 1938. He was a member of the NSDAP from 1937 until 1945. He was designated military economy leader (Wehrwirtschaftsfuehrer) in 1942 (see principally PE 1621, certificate concerning positions).

4. Certain Specific Activities of von SCHNITZLER During the Period 1933 to 1945. To place the specific activities outlined below in fuller context with the progression of events in Hitler's Germany and in Farben, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual brief with the year-by-year narrative under "B - CARL KRAUCH", above.

a. COUNT I - EVIDENCE OTHER THAN VON SCHNITZLER'S ADMISSIONS

THE YEARS 1933 THROUGH 1935

(1) Von SCHNITZLER was one of two Farben representatives who attended the Hitler-Goering-Schacht election meeting with representatives of a number of leading German industries on 20 February 1933 (PE 36). He heard Hitler inform the industrialists present that, come what may, the government which Hitler had headed for less than one month (30 January 1933) must win a majority in the March 1933 election or else force would be used to sustain the government (PE 37).

(2) From 1933 until 1945 von SCHNITZLER was a member of the Council for Propaganda (PE 1621). At the first meeting of this organization in October 1933, the members of this council were welcomed by Walter Funk (then Under-Secretary in the Ministry of Propaganda and later Minister of Economics) and were addressed by Dr. Goebbels as to how economic publicity "had to be reorganized according to national socialist principles" (PE 62, DB 3, p. 132).

(3) In 1934 the old industrial organizations were "coordinated" into the "self-administrative" organization of economy under the Law concerning the Organic Structure of German Economy (PE 71, DB 4, p. 77). Von SCHNITZLER immediately received several of his positions in the new Economic Group Chemical Industry and the rest he obtained in the following year, 1935.

(4) Von SCHNITZLER was one of the members of the Central Committee which in late August or early September 1935 "determined to create Vermittlungsstelle W in our place of business in Berlin NW 7 ... in order to provide systematic cooperation within the I.G. in the current development of military economy, and particularly to assure central treatment of the questions of military economy, military policy and military technics" (PE 101). The basic nature of the organization, encompassing all the gigantic problems for Farben which were involved in Germany's rearmament, are outlined in detail in the basic circulars by the defendants KRAUCH and ter MEER announcing its establishment and specific nature throughout Farben (PEs 101 and 139).

#### THE YEARS 1936 AND 1937

(5) 1936 was the year of the establishment of Goering's Four Year Plan in which Farben was to play such a predominant role. In January 1936 von SCHNITZLER was naturally one of more than a score of Farben officials who were informed that Mr. Merbeck was to be in charge of "Section A for Counter Intelligence matters" which was to be annexed to Vermittlungsstelle W (PE 145). Von SCHNITZLER was naturally a recipient of the various secrecy and security regulations which were increasing from month to month during these years (PE 148, DB 6, p. 54).

(6) The minutes of the Enlarged Dyestuffs Committee (of which von SCHNITZLER was chairman) of 22 December 1936, note that von SCHNITZLER "gave a highly confidential report about the statements made by the Fuehrer and Reichschancellor, as well as Minister-President General Goering, on 17 December in Berlin concerning the tasks of the German economy in the execution of the Four Year Plan" (PE 423). Von SCHNITZLER was informing a number of Farben leaders (including the defendant ter MEER) of the meeting in which he and KRAUCH had heard Goering state:

"Our whole nation is at stake. We live in a time when the final dispute is in sight. We are already on the threshold of mobilization and are at war, only the guns are not yet being fired".  
(Last paragraph of PE 421)

The relation of export-import and foreign exchange problems in connection with the drive for autarchy and rapid mobilization were thoroughly



discussed by Goering at this meeting.

(7) The nature of Farben's changing production in connection with the Four Year Plan and mobilization was reflected in the statistics of the Sales Combines, which any prudent businessman would watch even if autarchy and rearmament were not the main topic of the day.

"The sales of the products of I.G. Farben, including sales to the Reich government, were handled by the Sales Combines .... The head of every sub-division of the Sales Combine Chemicals selling a special I.G. product kept in permanent contact with the technicians of I.G. Farben manufacturing that product .... Just as there was a close liaison between sales combines and plants, there existed close liaison between the various plants and also between the various sales combines .... It can be seen from the foregoing that, notwithstanding the decentralization always emphasized by I.G., the whole concern worked as a big well-coordinated unit" (affidavit of von Heider, PE 372, DB 14, p. 63).

(8) The reborn Commercial Committee, which von SCHNITZLER was the head of from August 1937 until the collapse, was born with phrases of "questions referring to political economy" and financial politics; discussions of the relation of exports in the "execution of the Four Year Plan" which von SCHNITZLER believed had "priority over everything else, to a certain degree even over defense politics"; and references to "the tension in foreign politics" (von SCHNITZLER's letter to Bosch announcing the reformation of the Commercial Committee, PE 361, DB 13, p. 102). Von SCHNITZLER told Bosch "we shall also contact Dr. Paul Mueller as to the way in which we should include the explosives interests in our circle". The famous Ernst Rudolf Fischer (gasoline sales) and Paul Mueller (explosives) became participants in this reformed "circle" of Farben commercial leaders.

(9) Given the normal relationship between the commercial and technical side of a giant concern, it was inevitable that the Commercial Committee members, and the Commercial Committee itself, were plunged into mobilization questions. Extracts from the early meetings of the Commercial Committee in 1937 confirm the inevitability of this factor (PE 250, DB 9, p. 68). At the September 1937 meeting von SCHNITZLER reports on mobilization questions and asks the defendants ILGNER and GATTINEAU to

hold discussions with the Reich Ministry of Economics and to make an appropriate report at the next meeting. At the October 1937 meeting Frank-Fahle reports on the results of discussions with the Reich Ministry of Economics "about the order given to us and in regard to which he is in contact with Dr. Struss", chief of the Office of the Technical Committee. "The Sales Combines were to look into the questions concerning finances, personnel and stock-piling matters in the meantime they will then be discussed again by the Commercial Committee". Then again at the November 1937 meeting "the matter is discussed in detail. Agreement has been reached about future proceedings. Dr. von SCHNITZLER takes it upon himself, together with Dr. ter MEER, to clarify the collaboration of the WIPO with the Vermittlungsstelle W on this question". And again at the December 1937 meeting, the defendants von SCHNITZLER and ILGNER "report on their discussion with the experts of the Reich Ministry of Economics, and on the measures to be taken".

(10) The entire commercial organization of Farben was reorganized to meet the catastrophic transformations going on because of their problems of autarchy, rearmament, export, and foreign currency. At the second meeting of the Commercial Committee (September 1937) collaboration of the entire commercial organization of Farben with the WIPO is discussed in item 14.

"In view of the problems accumulating in connection with the Four Year Plan, rearmament, exports, and the foreign currency situation, etc., it appears absolutely essential for all agencies of the I.G. to maintain closest contact with the WIPO".

(11) By 1937 measures were already well under way with respect to the restrictions upon the employment of foreigners within Farben plants. The Commercial Committee, in its turn, was making the necessary adjustments in Farben's personnel abroad to fit the pattern of National Socialist ideologies and National Socialist foreign policy. At the September 1937 meeting of the Commercial Committee "it was generally agreed that under no circumstances should anybody be assigned to our agencies abroad, who is not a member of the German Labor Front and whose positive attitude to the era has not been established beyond any doubt....

It seems practical to work out a uniform plan jointly with the AO (Foreign Organization of the NSDAP)" (FE 363). In the next two succeeding meetings, the Commercial Committee discusses (1) a "uniform plan of dismissal (of Jews employed abroad) with the Foreign Organization of the NSDAP" (FE 365); and (2) means and methods for sponsoring National Socialist editors abroad at the "suggestion of Reichsleiter Ammann, the Fuehrer's confidential agent for the Press" (FE 366). Collaboration of the confidential agents abroad is likewise discussed upon the initiative of the defendant MANN (FE 363).

#### THE YEAR 1938

(12) The year 1938 was the year of two relatively bloodless territorial conquests by Germany: the first by unannounced aggression against Austria in March 1938; the second the occupation of the Sudetenland by a threat of force which was acquiesced in by France and England, who were late in the awakening to the necessities of rearming to meet the aggression and making efforts to gain time. Throughout this fateful year, mobilization problems were discussed in the Commercial Committee. Thus, at the January 1938 meeting, the defendant ILNER announced an agreement as to how responsibility for mobilization questions were to be divided between the Vermittlungsstelle W and the defendant GATTINEAU's FIPO. At the March, April, May, June and July meetings of the commercial leaders the question is repeatedly discussed, conversations of the military economic staff and other agencies are noted, etc. (FE 250, extracts from the minutes of the Commercial Committee meetings on mobilization questions).

(13) The entry concerning the discussion of the mobilization question in the Commercial Committee meeting of 11 March 1938 (FE 250) has been illuminated for us by the defendant HAEFLIGER's file note on this meeting (FE 2014), which states:

"Under these circumstances /final mobilization for the seizure of Austria/, of course, the conferences on M-matters took on highly significant features".

For the Commercial Committee members HAEFLIGER states that the annexation of Austria was already an established fact. The only question in their



mind was whether or not Nazi aggression would at that moment carry as far as the "short thrust" into Czechoslovakia, with a possibility or probability of the Western Powers retaliating against this aggression. The transfer of the commercial headquarters of Farben from Frankfurt to Berlin came in for special study. It is interesting to note that this fits in with the continued discussions on Farben's "technical side" concerning the transfer of production from Farben's plants located in the "Red Zone", the stock-piling of numerous war-important intermediate products and commodities, etc. Both Farben commercial and technical leaders were clearly taking Hitler's aggressive policies in dead earnest. There is no indication of any resistance or even of any disapproval. The theme of the day was to accept, to join in, and to adjust the Farben organization to a national policy of aggression. The Dye-stuffs Committee (with the defendants SCHNITZLER, ter MEER and KUGLER in attendance) was busy discussing mobilization questions in preparation for meetings of the Commercial Committee (FE 376, DB 14, p. 87).

(14) Von SCHNITZLER knew that the "tasks of the German Chemical Industry have received a tremendous new impulse through the Four Years' Plan of our Fuehrer Adolf Hitler". He confirmed this in the above words in August 1938 in a speech reproduced in Farben's house organ "From Work to Work" (FE 19). For at least twenty months von SCHNITZLER had known from the Hitler-Goering speeches (November 1936) of the well-spring of this "impulse". Numerous defendants have claimed they opposed the "twist" which National Socialism gave to science. But in August 1938, the first commercial leader of Farben was broadcasting a different tune:

"One of the fundamental ideas of National Socialism is identical with the motives which provide the incentive for research" (FE 19, DB 2, p. 121).

(15) Von SCHNITZLER knew that Farben was thriving on the "economics" which attended preparations for aggression. The year 1938, the first year of actual aggression, was the year in which Farben spent the largest amount of money for new constructions (FE 686, DB 32, p. 51, report of the Technical Committee to the Vorstand in August 1941). The first

year of aggression was known to von SCHNITZLER as a year of tremendous growth for Farben. Turnover, staff, and cash on hand - all increased considerably (FE 681, DB 32, p. 36, minutes of the June 1939 meeting of Farben's Aufsichtsrat. A number of Vorstand defendants were present, including von SCHNITZLER who answered certain questions raised. An aggressive policy was never unprofitable to Farben, however much it may have required revisions in the nature of Farben's world business operations.

(16) Of course, an aggressive policy was not merely a matter of increases in turnover, staff and cash on hand within the "Altreich" (Germany before the invasion of Austria). During the year 1938 both Austria and the Sudetenland fell victim to force or the threat of imminent force in Germany's foreign and military policy. The individual steps taken by Farben to match territorial aggrandizement by extension of the Farben concern is discussed above in that section of this brief devoted principally to the defendant KRAUCH (Part VI-A). In the case of Austria, Farben stressed that the main industrial enterprises of Austria should be combined in Farben's hands. One of the purposes was "to prepare assignments to be carried out by the chemical big industry of Austria within the framework of the Four Year Plan". (See FE 1040, p. 3, Farben's basic letter to Hitler's economic adviser Keppler, entitled "New Order of the Greater Chemical Industry in Austria", dated 9 April 1938.) The corporation which Farben organized in order to amalgamate the Austrian enterprises it was able to acquire, provided in its Articles of Incorporation that it shall "fulfill the tasks set them by the incorporation of Austria into the German Reich and by the Four Year Plan..." (FE 1099). (See also FE 2075, letter to the defendant von der HEYDE, referring to Farben's new Austrian corporation in connection with the Four Year Plan.) Defendant KUEHNE, in his turn, took steps to include the Austrian enterprises into the Mob Plan (FEs 2073 and 2074).

(17) In the case of the Sudetenland of Czechoslovakia, von SCHNITZLER played a leading part in acquiring the Aussig-Falkenau plants for Farben and von Heyden (Preliminary Memorandum Brief, Part II, par.

24 and following; see also PES 1612, 1044, 1108, 1109, 1110, 1113, 1116 and 2079). One of the main purposes of these acquisitions, apart from the usual Farben desire to expand and tolerate no new competition, was the continued increase of Germany's economic preparation for further aggression. This will be dealt with in some detail below in the brief principally dealing with the responsibility of the defendant KUGLER (Part VI-X below). Von SCHNITZLER's particular role and his knowledge of the significance of these acquisitions will be also dealt with immediately following in "b. COUNT I - VON SCHNITZLER'S ADMISSIONS".

(18) Von SCHNITZLER knew that Farben's incomparable service to Nazi military-economic plans were endearing Farben with top Nazi leaders, some of whom had been jealous and critical of "the state within a state". Just before Munich, von SCHNITZLER was advised of an editorial of the official Nazi Voelkischer Beobachter devoted to large concerns in which the chief economic editor said:

"It is important, however, that I.G. Farben, had it not been the major combine that it is, would not have been able to develop its chemical processes. What could we have done during the world war without artificial nitrogen? What would we do now without synthetic gasoline and synthetic rubber? And how restricted would be our hopes if we had not positive knowledge of new synthetic processes which will follow? These achievements confirm the necessity of major combines" (PE 11, DB 1, p. 82).

This was August 1938. A few days later, but still before Germany acquired the coveted Sudetenland, the Central Committee placed RM 100,000 "at the disposal of the Sudetenland German Relief Fund as well as for the purposes of the Sudetenland Free Corps" (PE 834, DB 46, p. 36, a notice of which the defendant von SCHNITZLER and the Vorstand members received copies).

#### THE YEAR 1939

(19) The year 1939 was the year of both another relatively bloodless aggression (the occupation of the remainder of Czechoslovakia in March 1939) and the aggression (against Poland in September 1939) which finally broke the long-threatened peace and plunged the whole world into war. We have just seen how the occupation of Austria and the Sudetenland



of Czechoslovakia fitted in with Farben's plans of extending its industrial empire, and at the same time preparing aggression. During 1939 von SCHNITZLER was regularly exposed to further plans and projects involved in Germany's aggressive policy.

(20) Von SCHNITZLER's close relationship to Ungewitter, business manager of the Economic Group Chemical Industry and simultaneously head of the Supervisory Office Chemistry has already been noted. The affidavit of Felix Ehrmann (FE 500, DB 14, p. 16) and his examination (Tr. 1729-1730) and his cross examination (Tr. 1738-1739) concerning this affidavit are especially significant. Ehrmann, as Deputy Chief Manager of the Economic Group Chemical Industry, was especially close to Ungewitter. He states in the affidavit:

"The main topic in the conversation of the responsible persons of the Economic Group Chemistry used to be, in the course of the summer 1939, the tension in the international situation.... I remember that during these conferences several meetings took place between Dr. Ungewitter and Herr von Schnitzler. In connection with the discussions about the imminent war, Dr. Ungewitter also made the remark that the war with Poland will most probably not begin before the harvest has been collected i.e. not till September 1939".

On direct examination before the Tribunal, Ehrmann said that he had no additions or corrections to make to this affidavit (Tr. 1730, first question and answer). Upon cross examination by Dr. von Keller (assistant defense counsel for the defendant von SCHNITZLER), Ehrmann answered in the negative when asked if he received "concrete official information, according to which an aggressive war was a firmly decided event and that hostilities were to start at a certain period of time" (Tr. 1738). Ehrmann answered affirmatively to the question:

"Then in that case, too, we are merely concerned with assumption and personal fears with no concrete official knowledge?" (Tr. 1739).

It is unimportant under the theory of the prosecution's case whether or not Ungewitter or any of these defendants had "concrete Official information, according to which an aggressive war was a firmly decided event and that hostilities were to start at a certain period of time", etc. It is undenied throughout this record that (1) Ungewitter repeatedly

discussed "imminent" war with Poland; (2) that Ungewitter himself expected that the imminent war would break out in the fall of 1939; and (3) that von SCHNITZLER was informed of this. The period between the time when Ungewitter so informed von SCHNITZLER and the period of the actual outbreak of war is the time after the occupation of the remainder of Czechoslovakia in March 1939. Of this period the defendant ter MEER has stated (ter MEER exh. 9, ter MEER DB 1, par. 6, p. 2):

"Now things possibly were driving to a very serious end. I considered at that time the foreign policy of the Nazis from this time on to be gambling and a clear course of criminal speculation".

The defendant ter MEER joined von SCHNITZLER in the Advisory Council of the Economic Group Chemical Industry in 1938 (FE 310, p. 1). If ter MEER's feeling of a foreign policy of force and "criminal speculation" was not partly influenced by the statements of the outspoken Ungewitter, then it can only be because the reasons for this feeling stemmed from such multiple sources by the summer of 1939 that any important and prudent executive in the German Chemical Industry had acquired this feeling independent of Ungewitter. For it is unthinkable, at least, that the first commercial and the first technical leader of Farben did not confer between themselves and with their Vorstand colleagues when a man in Ungewitter's role spoke of imminent war while his organization forged the Mob Plans.

(21) That the commercial Vorstand members were advised appropriately of the problems of Farben's DAG subsidiary in the explosives field is illustrated by the minutes of the Commercial Committee meeting of August 1939. Paul Mueller pointed out "the importance of mercury in the international explosives industry". The filling of a vacancy in the International Mercury Cartel was discussed in this connection (FE 607, DB 34, p. 30).

(22) During the very last days of the weeks of feverish mobilization activity in the summer of 1939, the Vorstand of I.G. Farben "decided to place a single contribution of RM 50,000" at the disposal of General Christiansen of the Air Force "in the interest of mobilization of the National Socialist Air Corps" (FE 1047, DB 51, p. 126, letter

dated 26 August 1939).

(23) Some of the evidence concerning von SCHNITZLER's participation in the crimes against peace after September 1939 will be discussed further below under Counts Two and Three.

b. COUNT I - VON SCHNITZLER'S ADMISSIONS

1. Introduction

(24) It is most illuminating to compare the statements in the affidavits which the defendant von SCHNITZLER executed in 1947 with the select excerpts from the total evidence in the case which have been sketched out in the section above, "COUNT I - EVIDENCE OTHER THAN VON SCHNITZLER'S ADMISSIONS". These admissions merely confirm, in our view, what the evidence of contemporaneous events demonstrates unmistakably and beyond any shadow of a doubt. The Tribunal is asked to consider very carefully any limitations which the defendant von SCHNITZLER made in 1947 to his essays (mostly handwritten originally), his interrogations, and his affidavits which he initially executed in 1945. And in this connection the Tribunal is likewise asked to carefully consider von SCHNITZLER's dramatic revelation of 24 March 1947 (FE 1812, pp. 1-8). Here von SCHNITZLER, in an interrogation called upon his own initiative, states that the basic qualifications he made during the early part of February and March 1947 in his interrogations and affidavits were really not based upon his own knowledge and belief but rather the residue of a period of uncomfortable "moral pressure" of his technical colleagues in Kransberg prison in December 1945 and early 1946. We think this chapter in the case bears especially careful consideration and merits the particular weight, because it shows the extent to which some of the main actors in this case have been willing to go for "window-dressing" purposes since the collapse of Germany. Of course, one does not need this particular chapter (revealing as it is) to arrive at the same conclusion. The defendant ter MEER himself felt obliged to alter some of the information he had given in 1945 concerning mobilization plans after he saw that the contemporaneous documents which were preserved and



available made the thesis which he and his technical colleagues urged in late 1945 and early 1946 patently incredible. The informality of the von SCHNITZLER investigations will be discussed below in a separate section, in which we will highlight only the complete freedom which von SCHNITZLER was granted to state his mind.

## 2. Farben, The Autarchy Program and Rearmament

(25) In one of his 45 essays, incorporated with additions in an affidavit from 1947 (FE 40), von SCHNITZLER has stated:

"The policy of 'autarcy' and 'rearmament' was so closely interconnected with one another that it really represents unsurmountable difficulties to distinguish which element of both was the prevalent one (p. 3).

....

"The whole development of I.G. in the years beginning with 1934 and accelerated since the end of 1936 is entirely due to the close teamwork with government and Wehrmacht (p. 3).

....

"Summarizing this part of I.G.'s activity: The close teamwork with Government and Wehrmacht in the joint endeavour to make Germany to a large extent autarchic and rearm her, involved a great amplification of I.G.'s potential and at the same time a substantial increase of her balance-figures (p. 10).

....

"A further team-work between Wehrmacht and I.G. developed under the heading 'M-Fragen'. This comprised all personal questions regarding men to be made free from service, special plans for the distribution of key-commodities to the different branches of I.G.'s technical activity and the so-called 'Kriegsspiele', furthermore all questions arising in the military field, eventually not covered by the different activities I have mentioned before (p. 11).

....

"... Nearly all investments were made directly or indirectly for the Wehrmacht. I.G. was on the whole a loyal and complaisant partner of the Wehrmacht (p 13).

....

"3.) In the handling with party matters I.G. acted after the policy 'laddling through' with the result that in the last it always had to yield.

"4.) Thus in acting as it had done, the I.G. contracted a great responsibility and constituted a substantial and in the chemical domain decisive help to Hitler's foreign policy, which led to war and to the ruin of Germany" (p. 13).

The 1947 "corrections" to this particular essay are found at pages 13 through 17 of FE 40. These "corrections" were made, therefore, before von SCHNITZLER's statement on Kronsberg "moral pressure" (interrogation of 24 March 1947, FE 1812), in which is contained this interesting colloquy concerning the "corrections":

"Q. In making some of the corrections which you have made in these new affidavits which include your old statements, I notice that you often said in the interrogations--- and therefore it is brought out in the new affidavits---that some of these corrections were based entirely upon the information you got from your technical colleagues?

"A. Entirely so, sir. That is the second point I had to revert to. Apart from my letter to FIAT, some of my corrections I have made during these last few weeks are perhaps not entirely correct on account of the fact that I acted on the informations of that statement.

"Q. Yes, that is one of the things which somewhat troubled me a little bit. You remember one time I asked you to rely on your own view and on your own recollections of the matter, and not to refer to somebody else's papers. I didn't mean at that time to tell you how to give your own views but I did think there seemed to be a certain unwillingness on your part to give entirely the view the technical people had in mind and yet on the other hand here also seemed to be a certain unwillingness to give fully your own views.

"A. Yes, I could not separate my view from their views and information which I believed to be better based than my own views. But in the meantime it is entirely changed.

"Q. What do you mean by that?

"A. I mean all that I said, basing my view only on that statement of ter Meer.

"Q. That is to say---you made some of the corrections to me based upon ter Meer's statement and yet you still recognize that some of the statements or corrections made by ter Meer are not in fact correct?

"A. That is right, but as far as I am concerned, I do not think they concern any important point. Otherwise, I would have made a counter-statement to FIAT." (pp. 9-10)

However, even the unamended 1947 "corrections" do not substantially alter the general substance of the admissions. In some respects they only draw the net tighter. Von SCHNITZLER notes that between 1934 and 1939 other ministries than the War Ministry were more important than the War Ministry itself in negotiations with Farben. The Ministry of Economics in the Four Year Plan, with the transfers from the Wehrmacht, spurred on the development of synthetics. The paragraph on the "great responsibility" of Farben is substantially and decisively helping Hitler's foreign policy on the road to war and a comparable paragraph are explained as follows:

"The last two paragraphs were inserted because I felt a moral, but not a legal responsibility, because I.G. had contributed a substantial, and in the chemical domain a decisive, help to Hitler's foreign policy which led to war and to the ruin of Germany and Europe, by the mere fact that without a substantial chemical industry modern warfare is impossible" (p. 17). (our emphasis)

### 3. Farben, The Economic Group Chemical Industry and Mobilization

(26) This subject has been partially covered in the last paragraph above. Von SCHNITZLER is particularly clear about mobilization in another essay (FE 40):

" 'Since the peaceful invasion into Austria the whole German country practically was on the foot of mobilization.

This state of things became even more accentuated, when Hitler had entered into Prague and preparations for a campaign against Poland were started. Since July 1939 many of our employees and particularly the officers of the reserve of the so-called new army were called to their regiments and lined upon the Polish frontier.

Simultaneously the industry was mobilized. Mobilization-plans, what in the case of war was allowed or ordered to be produced, had a long time ago been prepared.

These plans, which beginning with 1934 had been made up by individual firms in close team-work with Wirtschaftsgruppe Chemie and the competent ministries - became effective in such a way, that Wigrü returned them to the individual firm with his approval stamped on them...' " (p. 18).

In his only supplementation of substance (p. 19) von SCHNITZLER redefines "mobilization", stating that:



"The mobilization had been prepared, both personnel and war materials being mobilized in a certain sense, but the order placing the mobilization plans in final effect was not given until war broke out, as I have been informed since 1945" (our emphasis).

Von SCHNITZLER's clear knowledge of the mobilization plans appears from a long answer he made to a very short question in an interrogation

(PE 18, p. 6):

"Q. Can you give us the history of the development of the production plans for war, i.e. the 'Mob' plans?

"A. From the very beginning of the Nazi regime the Wirtschaftsgruppe was charged with semi-official functions in order to prepare an eventual German mobilization for war. In this connection they made an analysis of every chemical firm in Germany what their producing capacity was and what they had in stock, etc. For the so-called great commodities a production plan has been made up and the distribution for the needs of an eventual war was prepared. Representatives of the Wirtschaftsgruppe, that means officials, acted in close collaboration with the Ministry of Economics and the Ministry of War to collect that material and got from the different firms these plans which he did approve or disapprove. With the beginning of the war the long prepared system was put into action and functioned with the greatest accuracy. No firm was allowed to go beyond the production plans fixed beforehand and the commodities used for their manufacturing were strictly controlled. Thus Wirtschaftsgruppe and the other affiliations were from the first beginning an instrument which served as an intermediary between the Ministries of Economics and War and the individual firms".

Von SCHNITZLER had no "corrections" to this answer in 1947.

#### 4. The KRAUCH Office And Farben

(27) In a statement signed by both von SCHNITZLER and the defendant

ILGNER (PE 40), these two defendants state:

" 'Since 1936, I.G. officials paid by I.G. and assisted by a large staff of technicians and personnel all paid by I.G., planned for the Nazi Government, the Rearmament phase in the chemical sector with concentration on the building up of such war industries as magnesium, synthetic rubber, oils, etcetera. This was handled by the Reichsamt fuer Wirtschaftsausbau and the Generalbevollmaechtigteter fuer Sonderfragen der Chemischen Erzeugung, under Mr. Krauch.

"(signed) G. v. Schnitzler  
(signed) M. Ilgner' (our emphasis)

Frankfort on the Main  
August 15, 1945."

Von SCHNITZLER's supplement to this statement is very illuminating:

"(a) For the words 'The rearmament phase' I would substitute 'the autarchy and rearmament phase.'

"(b) For the phrase 'such war industries as magnesium, synthetic rubber, oils, etcetera,' I would substitute the words 'such industries as magnesium, synthetic rubber, oils, etcetera, which were important industries for the autarchy program and the rearmament program and which we also hoped would be economically workable under a peace time regime'." (p. 18) (our emphasis)

(28) Referring to the construction of Heydebreck and Auschwitz during the war, von SCHNITZLER makes it plain that the commercial leaders of Farben regarded the KRAUCH Office as the principal government agency in the chemical expansion program. In FE 1083, von SCHNITZLER states that the "I.G. was asked by the government or by Krauch to start in an enormous industrial development in creating two entirely new works, one in Heydebreck, ... the second in Auschwitz" (p. 6). Von SCHNITZLER's 1947 supplement to this statement shows his conception of KRAUCH's position:

"I stated that 'I.G. was asked by the government or by Krauch'. In other words I consider Krauch identical with the government in this connection because he did this as head of the 'Amt fuer Wirtschaftsausbau', a government position, and not as chairman of I.G.'s Aufsichtsrat" (p. 8).

##### 5. Admitted Knowledge of an Aggressive Policy of Force by Farben's First Commercial Leader

(29) In November 1936, as we have noted a number of times before, von SCHNITZLER heard Goering declare the mobilization tasks for industry at a forum before a number of leading industrialists and government economists, etc., and state that Germany was at war, except that the shooting had not yet begun. It has also been proven, as outlined above, that Ungewitter informed von SCHNITZLER that Hitler planned to attack Poland in the fall of 1939. What does von SCHNITZLER say to all this? He confirms it. Two of his statements confirming this episode are found

FE 40, pp. 20-21, supplemented at pp. 21-22. Von SCHNITZLER supplements his confirmation by saying that he was

"...very impressed by the manner in which he (Ungewitter) spoke.... I probably read into his statement that he said Hitler was determined to attack Poland.... Moreover, I thought Hitler's foreign policy of bluff backed by the strong fist would probably cause Poland to give in to his demands. However, I was a very worried man, particularly after the invasion of Prague, since I felt that England, France and America were bound to take a stiffer attitude to Hitler's words and actions, and that ultimately Hitler's policy would bring Europe to war and ruin" (p. 22).

It is significant that von SCHNITZLER believed that Ungewitter told him that Hitler would attack Poland in the fall of 1939. His hope that "bluff backed by the strong fist" would avoid immediate war because the victims would give away their territory by the threat of force is no defense whatsoever. Hitler must have "hoped" for this too. Even if this were a defense, von SCHNITZLER's 1947 supplement states that he knew "that ultimately Hitler's policy would bring Europe to war and ruin" (p. 22).

(30) Von SCHNITZLER places the time when industrial leaders had to know that the rearmament was not for defensive purposes at a considerable earlier time than 1939. In another statement (FE 40, pp. 22-23, with supplements at pp. 23-25) he says:

"Even without being directly informed that the government intended to wage war, it was impossible for officials of I.G. or any other industrialists to believe that the enormous production of armaments and preparations for war starting from the coming into power of Hitler, accelerated in 1936 and reaching unbelievable proportions in 1938 could have any other meaning. In view of the enormous concentration on military production and of the intensive military preparation, no person of I.G. or any other industrial leader could believe that this was being done for defensive purposes. We of I.G. were well aware of this fact as were all German industrialists and on a commercial side, shortly after the Anschluss in 1938, I.G. took measures to protect its foreign assets in France and the British Empire." (our emphasis)

After stating that he goes on further to say:

"This statement represents my impression in August 1945".

Von SCHNITZLER makes a supplement which again makes clear that he



recognized Hitler's aggression, that he had "neither an explanation nor an excuse" for the invasion of Czechoslovakia and that thereafter:

"It became absolutely clear to me that Hitler would lead Europe to ruin.... I didn't accept the Polish border 'incidents' as true nor did I accept the propaganda concerning Poland.... I did not think the Polish question would come to war because I thought Hitler, following his policy of bluff, backed up by the strong fist, would secure his demands of the Poles by his bluff.... The steps I took to protect I.G.'s foreign assets abroad were the natural protective steps of a cautious business man against this criminal speculation" (p. 24). (our emphasis),

(31) In a spontaneous answer to a simple question in 1945, von SCHNITZLER again confirmed his knowledge of aggression (PE 18, p. 6):

"In June or July 1939 I.G. and all heavy industries as well knew that Hitler had decided to invade Poland if Poland would not accept his demands". (our emphasis)

#### THE WAR YEARS

(32) During the war years von SCHNITZLER was particularly active in placing Farben and its agents at the disposal of the Intelligence Department of the OKW (Abwehr I). Beginning with March 1940, von SCHNITZLER placed the Company for Sales Promotion (Gesellschaft fuer Verkaufsfoerderung) which was substantially financed by Farben, at the disposal of the Abwehr I to carry out its orders and to camouflage trips abroad of its agents (PEs 926, 933, 934 and 928). After the Society undertook to carry out orders for Abwehr I, von SCHNITZLER took a leading role in procuring financial support of the organization from a number of industrialists (PE 926). On 17 April 1940, von SCHNITZLER was delegated by the Commercial Committee to take the necessary steps for centralizing Farben's collaboration with Abwehr I in the placing of its agents in Farben's organizations abroad (PE 929; see also PEs 927, 928, 930 and 931). Von SCHNITZLER was chairman of the Commercial Committee meeting held in July 1941, which approved measures for closer cooperation by Farben with the Intelligence Department of the OKW in procuring intelligence from abroad, which were proposed at a meeting between the defendants SCHNEIDER and von der HEYDE, and representatives

of the Intelligence Department of the OKW (FEs 370 and 1904; see comments in this brief with respect to MANN and von der HEYDE for a further discussion of these measures).

(33) After 1 September 1939 von SCHNITZLER continued to play a leading role in the German war effort, participating in a major way in the aggressive wars being waged, knowing that their purpose was conquest. His activities were indispensable to the waging of these aggressive wars and the preparation for new acts of aggression. In addition to his activities in creating and equipping the Nazi military machine for aggressive war and adjusting Farben's business for war, von SCHNITZLER also participated in the initiation, preparation and waging of aggressive wars through his participation in the spoliation activities charged in Count II of the Indictment and in the slave labor activities set forth in Count III of the Indictment. We will now proceed to discuss first his participation in the activities charged under Count II and then the participation in the activities charged under Count III.

c. COUNT II

INCORPORATION OF THE ECONOMY OF THE OCCUPIED COUNTRIES INTO THE GERMAN MILITARY MACHINE

(34) Numerous statements by von SCHNITZLER in his 1947 affidavits show the knowledge and understanding of any prudent business man of the purposes for which the economy of the occupied countries was used by Hitler's Third Reich. The Tribunal will note from the nature of the citations below that they are principally taken from von SCHNITZLER's "homework", that is to say, the essays which he wrote himself after being given a topic or assignment to develop by the investigators in 1945 (FE 39, par. 2). These von SCHNITZLER essays, quoted below, show the continuing sweep of Nazi economic-military expansion from 1933 on. It is almost impossible to distinguish functionally any particular period of time. The Nazi objective of developing Southeastern Europe as an annex to German economy is shown to have been present from 1933 on. With the invasion of Austria in March 1938, tactics are revised and the program of expansion is accelerated. With the occupation of Poland,

the incorporation of the economy for military purposes merely becomes more emphatic and ruthless. The furtherance of a policy of aggression remains unchanged. In this progression, the first commercial leader of Farben is on the bandwagon. In one of his essays von SCHNITZLER states (FE 1083):

"It was Hitler who from the very beginning, i.e. from 1933 on, tried to develop the South-East as an annex of Germany's economy and to attach it to the German industrial potential. But how little of this program in the first years has been realized is best shown by the fact that up to 1938 not a single individual project has been taken up by I.G." (p. 2).

....

"The strong trend directed to the South-East only took hold of I.G. after the Anschluss of Austria had been carried through. I.G., if it wanted to keep up its leading position in what up to then had been its export-business to the S.E.-countries, had to take up the manufacturing in the various fields of which formerly has been reported" (p. 3).

Concerning this entire statement, von SCHNITZLER merely corrects the words "European East" to "South-East" in a paragraph from which no extracts have been quoted above (p. 4). In another four-page statement on occupation policy, von SCHNITZLER has written (FE 1083):

"Beginning with the peaceful conquest of Austria and Czechoslovakia (Sudetenland) and continuing with the military conquest of the remainder of Czechoslovakia, Poland, Norway, Holland, Belgium and France (with the peaceful conquest of Denmark following in between) and also in regard to the Southeastern countries, it was the primary purpose of the German government to incorporate the economics of those countries to the purposes of Germany. This undoubtedly meant that these countries must work for the German war machine. The principle from the first was 'Führen' but that these countries must do it themselves. I remember that Mr. Schlotterer, Ministerialdirigent of the Reichswirtschaftsministerium announced this principle in a meeting of the Beirat (advisory committee of the Reichsgruppe Industrie) after the conquest of France. I.G. also acted in accordance with this slogan.

"The rapid accommodation of the Austrian industry to Goering's 4 years plan was amazing" (p. 4).

....

"I.G. played an important part in adapting the economy of the conquered countries to the purposes of the German war machine" (p. 7).



In making his 1947 corrections and supplements, von SCHNITZLER explains:

"I.G. did not want to take any property away from persons in the occupied countries, but I.G. did invest in the occupied countries on order of the government. When I wrote that 'I.G. played an important part in adapting the economy of the conquered countries to the purposes of the German war machine', I did not mean to indicate that that was all deliberately done on our own initiative. It was done on government order" (p. 8).

In another essay on the "Neuer Plan" (New Order), von SCHNITZLER states (FE 1056):

"It is obvious that the government's first interest was a militaristic one. Therefore the main points in the 'Neue Plan' will have been (also)" (p. 11).

In his 1947 supplement to this statement, von SCHNITZLER states:

"The New Order was not written upon Farben's initiative, but was written upon the request of the government as an 'expertise' to be written by I.G. as the first expert in the chemical field" (p. 12).

Von SCHNITZLER not only knew that the production of the occupied countries was used to increase the German war potential, but he also knew that this meant shortages for the local economy. In another "statement re repercussion of rearmament on the standard of living in the newly annexed countries", von SCHNITZLER states (FE 1056):

"On order of the Nazi-Government with the annexation of Austria and Sudetenland and later on with the annexation of Bohemia and Moravia in these newly conquered countries the economic system applied (applied) in Germany at once was introduced.

"Rearmament-production had to replace the normal production for peace-consumption and in a very short time the stocks were exhausted which in both countries were still available when the German troops entered into them" (p.13).

If this were true for Austria and Czechoslovakia before the actual war set in, it is clear that the consumers of the occupied countries suffered even more after aggression finally broke into open war. Von SCHNITZLER never doubted that Nazi expansionist concepts and Nazi slogans with respect to expansion meant what they said. As a supplement to the last quoted 1945 statement, von SCHNITZLER made an interesting addition:

"8. Concerning the general policy toward the economy of the occupied countries, I would like to make the following summary. Beginning with the occupation of Austria, it was plain from the statements of the government leaders that the 'Grosswirtschaftsraum Politik' would be applied to the economies of each of the occupied countries. The general objective was to realize a more intimate relationship between the economy of the old Reich and the economies of the occupied countries under German leadership. This German leadership was either effected by the leadership and supervision of state controlled agencies, such as the Hermann Goering Works, or by private German enterprises under conditions satisfactory to the Reich economic authorities" (p. 15).

It is interesting to observe how closely the "admissions" of von SCHNITZLER along so many lines overlapped or dove-tailed into the contemporaneous documents. In a further supplement to the above essay, von SCHNITZLER makes an interesting addition:

"As long as the war lasted, it was clear that the leadership and administration of the industries of the occupied countries had to be done on behalf of the German military potential. Otherwise the Reich government would have seen to it that a different leadership or administration was created. When I.G. sought to supervise or administer the production of a particular plant in an occupied country, we were only allowed to enter such an activity when we proved our ability to undertake this job and proved that it was necessary for the German military potential that I.G.'s 'know how' and technical knowledge be used. The fact that the industries of the occupied countries were used to assist the German military potential is a part of an entire complex, and it applies to the entire German industry, and not alone to I.G." (pp. 15-16).

(35) As the first commercial Vorstand member of Farben, defendant von SCHNITZLER was also, from 1937 up to the end of the Nazi era, the Chairman of Farben's Commercial Committee (PE 1621). The Commercial Committee was particularly a forum for the consideration of Farben's overall expansion and its new "participations" during the years of Germany's belligerent and aggressive occupation of the territory of other people. All the acquisitions made by Farben in occupied or conquered territory since 1938 were reported upon and thoroughly discussed in the Commercial Committee (PEs 1069, 1622, and 1623 - extracts from the minutes of the Commercial Committee meetings). Though officially

the Commercial Committee had no authority to make decisions, the Vorstand, in the words of defendant KRAUCH, "usually acted upon their recommendations" (PE 338). Defendant von SCHNITZLER, in his double capacity as first commercial man in Farben's Vorstand and Chairman of Farben's Commercial Committee, participated in and approved of all the spoliation of Farben. He was active in the plans to exploit the chemical industry of Russia and ultimately to have Farben share abundantly in the hoped for "reprivatisation" of Russian industry. Herein we shall mention only a few of his activities to sharpen the outlines of his culpable participation. In the Polish case, von SCHNITZLER was the main actor together with ter MEER; in the Francolor case, the main actor together with ter MEER and KUGLER. Since von SCHNITZLER did not take the stand, whereas ter MEER and KUGLER did, the defenses interposed as to Poland have been dealt with in more detail in the individual brief on ter MEER (Part VI-H) - as to Francolor in the sections on both ter MEER and KUGLER (Part VI-H and Part VI-X). Reference is also made to the Preliminary Memorandum Brief, Part II, p. 15 sequ. (Poland), and p. 38 sequ. (Francolor); and to this Final Brief, supra, Part III, Section B, on Francolor.

#### Poland

(36) It was von SCHNITZLER personally who took the lead in the plan integrating the Polish dyestuffs industry into the Farben empire. Not only was the initiative his own; but he also had to fight some resistance of various Nazi agencies. On 7 September 1939, six days after the assault on Poland, he sent his basic telegram on Polish industry to Farben's Berlin office (PE 1138). On 9 September 1939, defendant HAEFLIGER, at von SCHNITZLER's request, contacted the RWM, suggesting I.G. Farben as "trustee" of the principal Polish dyestuffs factories. The reaction was negative. Regierungsrat Hoffmann "did not see any necessity for the appointment of Commissars or other experts who could intervene in the plants" (PE 2003). Defendant von SCHNITZLER then appeared in person (PE 2003). After his discussion in the RWM, he compiled his arguments in his letter to the RWM of 14 September 1939 (PE 1139). Within one week, on 21 September 1939, the two Farben directors



Schwab and Schoener were appointed "trustees" of the Polish dyestuffs factories (PE 1140). Since we shall frequently meet the words "trustee" and "trusteeship" in connection with war time spoliation, we should not be misled by the pretence inherent in this expression. The true purpose of these "trusteeships" is best expressed by the judgment in Trial No. V, the so-called Pohl Case:

"All of the interests of the trustee were violently opposed to those of cestui qui trustent. The recognized concept of a trustee is that he stands in the shoes of his beneficiaries and acts for their benefit and in opposition to any encroachment on their rights. Here, however, the trustee was in the service of adverse interests and acted, at all times, under an impelling motive to serve those interests at the expense of his beneficiaries. Actually, the trusteeship was a pure fiction." (Judgment of Tribunal II in Case 4, 4 November 1947, pp. 8095/6)

Such was the case here. What such "trusteeship" really meant, is expressed by the order of the RWM appointing Schwab and Schoener. Their assignment was to have the operation of the enterprises "to be adapted to the requirements of the German war economy" (PE 1140). The second purpose: to further "the German export to neutral countries", was not meant seriously (Schwab, PE 1857, p. 2 bottom).

(37) Contrary to von SCHNITZLER's original purpose, it was not Farben but two of its employees who were appointed trustees. As a matter of fact, however, Farben considered Schwab and Schoener its own representatives (PE 1157). The two Commissars behaved accordingly. They held themselves out as representatives of I.G. Farben (Szpilfogel affidavit, PE 1159; his testimony, Tr. 2632). \*

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\* Schwab contested it (Tr. 6062). In weighing his testimony as against Szpilfogel's, we should bear in mind that Schwab is a full-fledged participant in the crime of spoliation while Szpilfogel is its victim. Also that, as far as Farben is concerned, Polish spoliation is just one case of war time plunder out of a great many, and not even the most important one; while Szpilfogel in those fatal days was being deprived of the very existence he had been building up during his lifetime, so that even the smallest details in this connection have been engraved in his memory.

(38) That Farben was the principal moving force is also proved by von SCHNITZLER's letter to the HM of 10 November 1939 (PE 1141) where he pointed to the fact that, ever since the trusteeship started, Farben had been providing "technical and business care" to Boruta. According to his letter, "the I.G. Farben ... takes the attitude that ... it should also advance the means for putting the Boruta into operation again, and for keeping it running" (PE 1141). Compare the confirmation by von SCHNITZLER's witness Schwab (Tr. 6134). For this purpose he submitted detailed suggestions, and also proposed the organization by Farben of a special buffer company. The best he could hope for, at the moment, was a lease agreement. But Farben's goal of acquiring title to the Boruta plant, which was ever present since September 1939 (LUGER affidavit, PE 1629, p. 14), is again being stressed in this letter by von SCHNITZLER:

"During the course of this long-term (lease) agreement - we have in mind a period of 20 years - it may be in the interest of the Reich to reprivatize the plants again.... It should, therefore, not seem unreasonable that, in such an eventuality, I.G. Farben should be given priority rights with respect to the purchase of the plants" (PE 1141, pp. 2-3).

The question of who took the initiative in this breach of the rules laid down by the Hague Convention has been answered unambiguously.

(39) The same letter (PE 1141), coming back to former propositions by von SCHNITZLER (PE 1138), also suggests that Farben's buffer company should be entitled to transfer to Boruta "all those plant installations in Winnica which are of interest for the German economy - this applies in particular to the antraquinone plant there"; and also "to remove from the Kola plant, which has also to be closed down, all installations fit for use, in particular the brand-new betaoxynaphtol plant".

(40) Von SCHNITZLER's leading participation in spoliating the three Polish plants continued. In the case of Boruta: see PE 1142, letter co-signed by von SCHNITZLER, transmitting draft of lease agreement to Main Trustee Office East; PE 1859, von SCHNITZLER's letter to

Winkler (Main Trustee Office East) of 16 January 1941, setting forth far-reaching measures planned by Farben for the strengthening of Germanism in the incorporated part of Poland if it acquires title to Boruta; FE 1144; FE 1146, Mahnke's letter to von SCHNITZLER of 23 April 1941, advising him of Himmler's consent that Farben acquire title to Boruta; FE 1150, contract co-signed by von SCHNITZLER, transferring to Farben the assets of Boruta including its real estate; see also von SCHNITZLER's letter, FE 1878. In the cases of Wola and Winnica: FE 1153 and 1154, letters co-signed by von SCHNITZLER of 11 June 1940, addressed to the Nazi authorities in charge, concerning the lease of Wola and Winnica equipment to Farben, entitling Farben "to transfer the rented installation ... to Boruta ... or to any of our other factories or to some other place in the German Reich, and there to make unrestricted use of the installations for our purpose" (FE 1154; see also FE 1160).

(41) Von SCHNITZLER's participation in "purchasing" the French 50% share in Winnica appears from FEs 1880 and 1164. He then became a member of Winnica's Supervisory Board (FE 1880).

(42) All the above quotations and references are taken from contemporaneous documents. The Farben directors in charge at the time have corroborated the decisive facts: Schwab (FE 1857; Tr. 6134); Kuepper (FE 1176, p. 2; Tr. 2915); Eckert (FE 397; Tr. 3169). As to von SCHNITZLER's witness Winkler, see individual brief on ter MEER (Part VI-H). Von SCHNITZLER himself has admitted both the facts and the immediate results of spoliation in Poland: see particularly FE 1083, DB 56, p. 21. In order to get rid of rivals (the Gutfred brothers, FE 1147) "it was necessary to explain to Greifelt \* personally that a dyestuffs factory could only be run by experts, and that these experts only were to be found with I.G.". Also: "The dyestuffs and intermediates produced there

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\* Greifelt is the notorious head of the Office for the Strengthening of Germanism (FE 1083, DB 56, p. 21) who, meanwhile was sentenced to life imprisonment by the Nurnberg Tribunal No. I.



(Boruta) did practically all go to the Wehrmacht" (FE 1083, p. 14). The prosecution witness Dr. Szpilfogel, the aged founder of the Tola factory, has passionately described the human tragedy which befell innocent victims of war time plunder among them himself (FE 1159 and Tr. 2633, 2635 and 2636). Von SCHNITZLER did nothing to disengage Farben or himself from the Nazi-Farben projects in Poland after receiving Szpilfogel's cry of despair which reached him from the Warsaw ghetto at the beginning of 1941 (FE 1159; Tr. 2633 and 2653).

#### Soviet Russia

(43) In the case of Russian spoliation, defendant von SCHNITZLER attended the 26th meeting of the Vorstand on 10 July 1941 where the Eastern corporations were discussed (FE 1177). He participated in the organization of one of the so-called Eastern Monopoly Corporations, the Chemie-Ost G.m.b.H. (FEs 1190 and 1564). He asked Dr. Ungewitter to be appointed a member of the Supervisory Council of Chemie-Ost G.m.b.H. (FE 1561), which request was granted (FE 1562). As to his own explanation, see FE 18, pp. 34-35.

(44) As a member of the Vorstand, defendant von SCHNITZLER also received de Haas's report on Russia, with accompanying letter of 3 January 1942 (FE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (FE 1175).

#### Norway

(45) Defendant von SCHNITZLER was fully advised, and approved of Farben's program in Norway: FEs 1193 and 1200. As Chairman of Farben's Commercial Committee he attended the meetings of said committee where the Norwegian plans were discussed and agreed upon: FEs 1623 and 1205. He also received Farben's two New Order reports on Norway (FE 1191). As to the individual steps taken and the defenses interposed, reference is made to the Preliminary Memorandum Brief, Part II, pp. 31-35; the Final Brief on Norway (supra, Part III, B) and the individual brief on defendant ILGNER (infra, Part VI-N).

France (Alsace-Lorraine)

(46) Defendant von SCHNITZLER was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine: Strasbourg, Merlebach and Diedenhofen (FE 2192). As Chairman of Farben's Dyestuff Committee (FE 1621), he attended its meeting of 17 April 1941 where

"the Dyestuff Committee notes that the Mulhausen plant of the Societe de Produits Chimiques et Matieres Colorantes de Mulhouse was restarted by the I.G. in April 1941, and that it has been leased to the Mulhauser Chemische Werke G.m.b.H., Mulhouse, Alsace, which is a new foundation of the I.G." (FE 1216, p.3).

He signed the minutes of said meeting.

France (Rhone-Poulenc)

(47) The Rhone-Poulenc spoliation, though primarily carried through by defendant MANN (see Rhone-Poulenc brief, supra, Part III-D and MANN brief, infra, Part VI-R), was part of Farben's over-all program for which defendant von SCHNITZLER is mainly responsible. In the first half of September 1940, defendants KUGLER and MANN completed their round-trip to the Nazi military authorities in the occupied West. KUGLER immediately advised von SCHNITZLER "about General Consul MANN's intention of working towards a 51% capital participation in connection with the reorganization of our relations with Rhone-Poulenc" (FE 1242). Defendant von SCHNITZLER then reported on these negotiations to the Commercial Committee on 26 September 1940 (FE 1622, p. 5). He also advised other government agencies of Farben's program providing "for large-scale agreements of private enterprises with French industries, particularly those of the dyestuffs and pharmaceutical products" (FE 2144). On 12 December 1940, he was present in the Commercial Committee meeting in which defendant MANN reported on his negotiations with Rhone-Poulenc resulting in the license agreement. MANN also advised that "in addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital". Von SCHNITZLER belonged to the Vorstand members who "agreed to this line of action" (FE 1270). His further participation appears from FE 1622, subdivisions g.h.i.n.

France (Francolor)

(48) The evidence has shown beyond any doubt, and it is not disputed, that defendant von SCHNITZLER played the leading individual role in the Francolor case. Not only did he lead in pressing the "claim to leadership" (FE 1259, p. 7); also the words "claim to leadership" were "probably" coined by him (ter MEER, FE 1257). He was instrumental in creating the New Order report (FE 1049; 818, 1622, pp. 2-4; FE 1052). A few days after the French armistice, he already planned to go to France (FE 2140). He did go there as early as "about 15 August" (FE 1259, p. 8; see also Tr. 12672) in order to win the support of the local authorities of the Nazi military government for his plans concerning the French dyestuffs industry. Defendant von SCHNITZLER is directly responsible for Farben's tactics to first starve out the French dyestuffs industry, and then, when they were ripe for negotiations, to present Farben's claims. As to his delaying tactics, see FE 369, p. 2 and FE 2144. At the same time, all competent branches of the Nazi military government were requested to prevent the French dyestuff industry from resuming production by not allocating raw materials to them, and by prohibiting the vital interzonal traffic between occupied and unoccupied France: see Francolor brief, supra, Part III-C, and particularly FE 1244 (von SCHNITZLER's letter to the RMH). That the contemporaneous documents show, has been ably summarized by von SCHNITZLER himself:

"I thought it advisable to let them (the French dyestuffs industrialists) simmer in their own juice" (FE 1259, p. 4).

He welcomed the fact that the first meeting with the French eventually took place at Wiesbaden under the auspices of the German Delegation (Savoy Hammen) because, thereby, "our program ... will be presented, so to say, from official quarters" (FE 2142). He then was the spokesman of the Farben delegation at the first Wiesbaden meetings with the French (FE 1246). He personally corrected and signed the description of this meeting (FE 1247) which was drafted by defendant KUGLER (FE 1258, p. 4). This description which he sent to all the members of the Farben Vorstand (FE 2195) was, of course, polished (compare the minutes drawn up by the



French, PE 2194; and even the minutes signed by the German government representative Dr. Schoene, PE 1246). But it is still blunt enough to show the overpowering pressure exerted on the French. Envoy Hemmen's threatening attitude also clearly appears. Though KUGLER (Tr. 12816) and ter MEER (Tr. 13043, 13163) have now tried to disavow Hemmen's behavior, defendant von SCHNITZLER, at the time, was enthusiastic about it (PE 2193 \* and PE 2196).

(49) After Wiesbaden, defendant von SCHNITZLER was, again, the leader of the Farben delegation in all official meetings with the French (PEs 1250, 1253). Of the steps taken behind the scene by defendant KUGLER and Dr. Kramer, Paris, he was kept advised by their letters and memos addressed to him \*\*. See particularly PEs 1886, 2146, 1248, 1249, 2147; von SCHNITZLER Exh. 52; and PE 2148. These steps were meant to make it clear to the French that, unless they accept Farben's terms, their industry would not survive. The French understood. See the above exhibits and von SCHNITZLER's official statement in the meeting with the French of 20-21 January 1941, PE 1250, p. 7:

"The German group believes that the interest of the French group in resuming production in its factories, and, at the same time, securing itself for the future, is an adequate reason for signing an agreement on the basis proposed by Germany."  
(our emphasis)

Defendant von SCHNITZLER was also most adamant in maintaining, against French resistance, all major points to be imposed by Farben. As to the 51% participation (rather than 50%), von SCHNITZLER shifts responsibility to ter MEER (PE 1259, p. 10) while his witness Dr. Kuepper testified that ter MEER was "rather violently opposed" to it (Tr. 13175). As to the other conditions which hurt the French most, see KUGLER's letter to von SCHNITZLER (PE 2153), and von SCHNITZLER's answer (PE 2143). See also individual

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\* Von SCHNITZLER's counsel has disputed (Tr. 13175) von SCHNITZLER's authorship of this letter. This is in vain. As ter MEER said: "From the contents of this letter it becomes apparent to anyone who knows the situation that it originates with Herr von SCHNITZLER" (Tr. 13176).

\*\* All Kramer memos sent from Paris to Frankfurt automatically reached defendant von SCHNITZLER, PE 1258, p. 4.

brief on defendant ter MEER (infra, Part VI-H) where it is shown that each and every of the French counter-suggestions was rejected. Of course, defendant von SCHNITZLER knew of the French reaction. He was advised of the fact that they took shelter to the Preamble in order to make it clear to the outside world and for posterity that they had acted under pressure (FE 2150, Knepper's memo of 1 July 1941, addressed to von SCHNITZLER).

(50) Defendant von SCHNITZLER co-signed the Francolor Convention (FE 1255), and became a member of Francolor's first Conseil d'Administration (FE 1256, p. 14). He was constantly kept advised of the Francolor production program which was adapted to the requirements of the German Wehrmacht (FEs 1909, 1908, 1913, 1911 and 1915). He reported on it to the Commercial Committee (FE 1622, p. 10) and to the Enlarged Dye-stuffs Committee (FEs 1887 and 1260; see also FE 1337, p. 3).

(51) The defenses interposed by Farben have been dealt with in the brief on Francolor (supra, Part III-C), and also in the individual briefs on defendants ter MEER (infra, Part VI-H), KUGLER (infra, Part VI-X), and AMEROS (infra, Part VI-J). As far as the documents submitted by defendant von SCHNITZLER in his Books III, IV, and V \* have a possible bearing on the issues before us, they have been taken up in the briefs just mentioned. Von SCHNITZLER's documents 178-192 (von SCHNITZLER Book X), which were introduced at the close of the trial have no reference to any of the issues, in our view, and they have been ignored herein.

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\* The Indices in von SCHNITZLER's Document Books are particularly misleading. The Index as to Exh. 71, e.g., speaks of "positive confirmation of the members of the Verwaltungsrat by the French government" while, in fact, such confirmation only refers to the French members and, therefore, proves nothing. - As to Exh. 89 it is stated that Francolor received in 1942 "further shares in the nominal amount of RM 3,187,500 without compensation on the part of Francolor". In fact, as the document shows, only a change in the denomination of the shares was involved for which, as a matter of course, no stockholder could possibly have paid any compensation.

d. COUNT III

SLAVE LABOR

(52) Von SCHNITZLER's criminal culpability for Farben's participation in the slave labor program flows directly from his acts, conduct and responsibility as one of the foremost Farben officials. His undisputed position as a policy maker derives principally from his membership in the Vorstand and the Central Committee and from his chairmanship of the Commercial Committee. In the same year in which von SCHNITZLER became chairman of the reformed Commercial Committee he became the plant leader (Betriebsführer) for the central offices of Farben in Frankfurt (PE 320, par. 17 (g) and PE 1324). Because he was a plant leader in the sense of the Law for Regulation of National Labor, he was a regular member of the Plant Leaders Conferences under the chairmanship of the defendant SCHNEIDER (PE 1324). He often attended the TEA as a guest.

(53) As early as February 1941 defendant von SCHNITZLER participated with defendant ter MEER in reporting a survey of the French dye industry to the Reich Ministry of Economics. Among other things the report discussed the number of persons employed as of 1 November 1940 in the plants producing aniline dyes in Germany. Defendants von SCHNITZLER and ter MEER took exception to the government's figure and stated that it was safer to use their figures which were based on an actual count of the workers. This count, they stated, did not, however, include the prisoners of war and other foreigners (PE 1325). The evidence indicated that von SCHNITZLER was looked upon in Farben circles as being an authority on the available potential labor supply from French firms in which Farben had secured a participation following occupation by German troops. For example, defendant SCHNEIDER, the chief plant leader of Farben, in November of 1942 directed a letter to von SCHNITZLER (and defendant MANN) concerning the Vorstand's suggestion of procuring French workers for Farben from those French firms in which Farben had an interest. Defendant von SCHNITZLER's reply to SCHNEIDER pointed out, that the transfer of workers from Francolor to Farben had been initiated many months ago (PE 1327). Likewise in August 1942 Dr. Ritter of



defendant KRAUCH's office wrote to von SCHNITZLER on the subject of "Group Employment of French Factory Workers" in which defendant von SCHNITZLER was asked to use his influence for the large-scale utilization of labor from Francolor and the Kuhlmann concern. Defendant von SCHNITZLER replied that the quota of French workers was limited because Francolor was working principally for the German armament and needed these workers (PE 1337).

(54) In March 1943 an inquiry was directed to defendant von SCHNITZLER on behalf of the Reich Ministry of Economics on the question of allocation of workers and as to how Farben participated in this allocation. A number of other questions were also posed in the communication. Von SCHNITZLER referred the inquiry to defendant SCHNEIDER "Bertrams Office". Bertrams drew up an answer based on the combined opinions of the plants at Ludwigshafen, Hoechst, Leverkusen and Leuna. In this answer Bertrams included the following significant statement:

"Therefore, it would be necessary to comb the chemical industry in France and Belgium and that the skilled workers who thereby are becoming available will be utilized in the chemical industry."

Defendant von SCHNITZLER, of course, received a copy of this answer (PE 1326).

(55) The evidence also shows that defendant von SCHNITZLER from 1941 to 1944 inclusive received the minutes of the directors' conferences from Farben's major plants. The minutes of the directors' conference at Leverkusen often bear his initials. This is not disputed by the defendant. These minutes include references to Leverkusen's use of Polish juvenile workers (PE 1371, p. 2); discrimination against aliens and using them for urgent Sunday jobs (p. 4); sending of a Leverkusen representative abroad for recruiting purposes (p. 5); the unclean condition of the foreigners' barracks at Leverkusen in respect to lice (p. 7) etc.

(56) The shortage of labor in Germany made the "labor power supply" an important consideration in the business of any German concern even before the war began. And quite apart from the Betriebsfuehrer conferences, von SCHNITZLER was in the chair during Commercial Committee

meetings when the employment of foreigners on the commercial side of Farben was discussed (for example, FE 2111). In one of his 1947 affidavits, von SCHNITZLER states:

"It was clear that many thousands of laborers from the East were employed in I.G. plants and that they had not come to Germany voluntarily... Practically the whole Germany economy ran on these foreign workers...

"I was generally informed only of I.G.'s total labor situation. In meetings of the TEA, matters of the labor supply, including, of course, foreign workers after 1940, were generally discussed...

"I never knew or heard of a single case when any German employer got into difficulty because he had not ordered or accepted foreign laborers and because of this did not fulfill the production quota or 'Auflage'..." (FE 1324).

KNOWLEDGE OF THE EXTERMINATION PROGRAM IN AUSCHWITZ AND FARBEH'S CONNECTION THERE TO

(57) To our mind it is inconceivable that highly educated men like von SCHNITZLER, with all the special sources of information, did not know that the peoples whom the Nazis called "inferior" in the occupied countries were being driven to impoverishment, to segregation, and ultimately to extinction beginning with the occupation of Austria or at least by the invasion of Poland. He and his colleagues had seen only too clearly what had happened to the Jews, the gypsies, the Bibelforscher (Jehovah's witnesses) and others in Germany. When the Jews were excluded completely from the economic life of Germany by the public decrees of November and December 1938, any intelligent man knew (knew beyond any shadow of a possible doubt) that the remaining Jews in Germany were either being hidden away in concentration camps, at the mercy of the SS, or else having their last energies deployed as slave laborers. Compare the testimony of the defense witness Karl Weigand, an official of Farben since 1906. Karl Weigand, a director of the Sales Combine Dyestuffs under von SCHNITZLER (member of the "mixed" Dyestuffs Committee) testified that for the disappearing Jews after 1939 "there was only two possibilities: Either they had gone abroad or they had been sent to a camp" (Tr. 10319). Von SCHNITZLER coordinated "the Social program of Farben in occupied

Poland with the SS Racial and Resettlement Office (PE 1148, letter of von SCHNITZLER to SS General Greifelt). So far as von SCHNITZLER knew even wealthy Polish Jews like Szpilfogel disappeared forever behind the curtain of the Warsaw ghetto. If thereafter this defendant and his colleagues gave invaluable and essential support to the Nazi government to maintain and increase its occupation with its inevitable consequences of degradation and ultimate extermination, what substantial difference does it really make if the "death" came faster or whether it came more slowly? But von SCHNITZLER himself has admitted that he learned of the ultimate tragic "final solution".

(58) In PE 40, page 6, von SCHNITZLER has stated:

"In the last quarter of 1944 I should say, it was at the end of November or in the beginning of December, an allusion was made to me confidentially by Dr. Müller-Gunradi that terrible things had happened in the concentration camps at Auschwitz, that gases had been used there to kill people and that I.G. products were of something in it - of course it was only allusion. Not knowing anything of Dyhrenfurt at the time, I could not bring this allusion in connection with the new gas, but I was so horrified by it that I only reacted 'but do other people know that too', which he confirmed, yes, Ambros and the other men in Auschwitz know of these things. To Schmitz I made a remark about terrible things being connected with Auschwitz and Dyhrenfurt but without going into details. How far he was informed about it, I can't say, for my opinion he should have heard about the general happenings regarding Anorgana a.so. as financial interests of great importance were connected therewith and Ambros and Müller-Gunradi must have reported to him about the situation under all its aspects. - But that, of course, can only be heard from the 3 men themselves."

This is one of von SCHNITZLER's longhand studies of 1945 which was incorporated in a 1947 affidavit. In his 1947 supplement concerning this point von SCHNITZLER states:

"This was more of a reference to a rumor than it was to an 'allusion' to the fact. Since 1945, I have talked to Schmitz and he does not recall that I ever mentioned the matter to him" (PE 40, p. 14, par. (e)).

And after von SCHNITZLER's principal interrogations in February and March 1947, this was one of the two points which he raised after being away from Nurnberg more than three weeks. He was then asked if there



were any "further remarks concerning your statements made here and in interrogations which we have had together" (PE 1813, p. 2). He replied:

"And then one other thing again. Of course I thought it over so very often because I realize the importance of that for other people. That was my talk with Mueller-Gunradi. You remember that when he spoke to me that the rumor was running about things which happened in Auschwitz Concentration Camp, and I was horrified and said, 'But do the people on the spot, Ambros and the other people, know anything of that too?' This is entirely written into my memory. Now his answer was understood by me in the affirmative but if he had said 'Yes' or if he had said 'Ja, ya' as one says in German, or he has only nodded, that of course I cannot remember any more".

e. COUNT V - CONSPIRACY

(59) The comments made in the individual brief on the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant von SCHNITZLER.

f. THE GENERAL DEFENSE OF GOVERNMENT ORDERS AND SECRECY

(60) The general defense interposed by all defendants is the defense of duress. We have evaluated this "defense" in this Final Brief, Part V-B, supra. Reference is made thereto. Defendant von SCHNITZLER, in his statements, obviously follows this common line of defense: everything Farben did was really based upon a government order. He also emphasizes that much of what Farben did, particularly with respect to technical developments and expansion, was secret. For example, von SCHNITZLER has stated (PE 40):

"I.G. followed the 'Grossraum-Politik' of the government because there was no other economic policy to be made.

....

"In the handling with party matters I.G. acted after the policy 'muddling through' with the result that in the last it always had to yield" (p. 13).

Speaking of the "young and active technicians like Ambros, Buefisch, Wurster" and others, von SCHNITZLER states that they "engaged I.G. in always greater commitments. They used the word 'Auflage', - 'impost'

(order) of Wehrmachtsstelle X (Army Office X), but sometimes it never became quite clear if our technical men themselves had not deliberately induced the Wehrmacht to that 'Auflage' (order)." (pp. 3-4). In explaining this statement in 1947, (p. 14) von SCHNITZLER stated:

"(c) In the last paragraph on page 2, I meant no reproach against the technical men of I.G. when I said 'It never became quite clear if our technical men themselves had not deliberately induced the Wehrmacht to that 'Auflage'. An 'Auflage' was more or less an order to or imposition of a task upon a concern or plant by the Wehrmacht. In working upon the 'Auflage' as team workers with the Wehrmacht, I.G.'s technical men had the opportunity to suggest modifications of an old 'Auflage' or to suggest a further project which later became an 'Auflage'."

How loose this conception of a government "order" becomes is also seen by a 1947 supplement to a 1945 statement on financial participations. Von SCHNITZLER states:

"Much of I.G.'s participation in the East and South East were extended by force in the sense that their production was needed because of the war" (FE 1056, p. 10). (our emphasis)

How meaningless it all is with respect to claiming superior orders as a defense of mitigation is shown by another von SCHNITZLER statement:

"Nearly all investments were made directly or indirectly for the Wehrmacht. I.G. was on the whole a loyal and complaisant partner of the Wehrmacht" (FE 40, p. 13).

The prosecution naturally does not deny that Germany was a totalitarian state. It does claim that Farben, ordinarily with enthusiasm, sometimes with reluctance, gave a whole-hearted, imaginative, and absolutely essential assistance to totalitarian Germany in a criminal manner.

(61) Von SCHNITZLER makes the usual defense that he could not know the details of some of Farben's military projects because of secrecy. What a hollow shell this is appears from FE 40, where von SCHNITZLER talks about the pledge of secrecy in connection with the planning and executing of rearmament work. He states (FE 40);

"This had gone so far that for instance when Dr. Paul Müller of Dynamit A.G. in 1937 lead the members of Z.A. of I.G. over the Dynamit plant in Troisdorf, he refracted from showing to them entire departments saying 'this is under strictest secrecy'. Every infringement would have been

punished with high penalties of hard labour. So practically everybody of the high-ranking staff was in such a way sworn in, the survey of what I.G. really did make or not make for the Wehrmacht became more and more a pure guess-work and one abstained of asking in order not to put one's technical colleagues in a difficult position" (p.10).

But even if the Central Committee members of Farben had not been conducted through the central Troisdorf Plant of DAG, and even if they were not told that certain departments were under strict military secrecy, von SCHNITZLER knew (and every leading official of Farben knew) that DAG was doing whatever was essential in the eyes of the German Wehrmacht to rearm Germany. It is inconsequential to what extent von SCHNITZLER knew of the details or even of the particular nature of the individual projects of the "explosives circle" (as von SCHNITZLER referred to DAG and its subsidiaries when notifying Bosch of the reformation of the Commercial Committee in 1937). If one uses his factory to place deadly weapons at the disposal of a notorious gangster-killer, and takes profits from the transaction, it is hardly a defense worth mentioning for the provider to claim that he did not know just how the deadly weapon operated or just how each of its parts were made.

(62) Since von SCHNITZLER did not take the stand, it is more appropriate that we should not labor here some of the more specific defenses raised by the defense generally or in the defense case for von SCHNITZLER particularly. These have been or will be handled in other parts of this brief and the Tribunal is requested to take due notice of them. However, the defense claim that von SCHNITZLER's affidavits of 1947 were not voluntary are handled in the paragraphs immediately following.

g. THE VOLUNTARY NATURE OF VON SCHNITZLER'S ADMISSIONS

(63) The original statements of von SCHNITZLER in 1945 were principally obtained in connection with investigations of so-called "excessive concentrations of economic power" in Germany in 1945 by various American agencies, principally DIOCEA (Division of Investigation of Cartels and External Assets) or its predecessor and successor agencies.



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Von SCHNITZLER himself describes the nature of these interrogations in FE 39, paragraphs 1 through 4. These four paragraphs are made a part of each of the subsequent 1947 affidavits. In FE 39, which was dated 4 March 1947, von SCHNITZLER makes the following statements, among others:

"2. It has always been my intention to give the truth according to the best of my knowledge and belief to the Allied investigators. I never intentionally gave false information of any kind. The relationship between the investigators and me in Frankfurt during 1945 was very free and open and very cordial. In Preungesheim American soldier prisoners were also detained. On a number of occasions I felt that I was mistreated in the jail because of the dislike which certain of the soldiers had for me. When I reported some of these incidents to the investigators, they interceded on my behalf with some success and sometimes without success. The investigators generally stated that they wanted me to give my best recollection of events without access to documents. Except for a few occasions when my recollection was refreshed by being shown a document, the statements I made and the interrogations to which I subscribed were based entirely upon my recollection and belief as of the time I was interrogated and made the particular statements. At no time during the investigations of 1945 was I prevented from correcting any statement which I made if thereafter I thought I had made an error. The typewritten statements which I signed were made in the following manner: I would first be asked to give information on a certain topic. Thereafter I would go to a room where I could be alone and write up the matter in longhand or else make longhand notes which I later used as a basis for dictating a statement to a German or American stenographer who took English stenography. Sometimes it took me less than a day to write up some of the statements. With some of the longer statements, however, it took me as long as three days to complete them. After the stenographer or typist reduced the statement to writing I went over the statement to make any corrections and then certified to the truth of the statement. The records of the interrogations were made as follows: Sometimes the questions and answers were immediately reduced to writing as originally made. Sometimes, after a period of discussion between the interrogator and me, a question or answer would be written down for the record which summarized the results of the matters discussed. Whichever of these methods was followed in these interrogations, I thereafter went over the written record of the interrogation to correct any errors and thereafter certified to the truth of the matters stated in the interrogation. In October I was removed from prison and placed under house arrest and thereafter re-arrested again. Mr. Edelman, CIC Finance Chief, informed me this was done on orders of higher headquarters because I was in the category of mandatory arrest. At that time I was informed in writing by Mr. Devine that the reason for my further imprisonment was not because

of any failure to cooperate with the American authorities. This same letter states that my 'assistance from an information gathering standpoint has been invaluable'." (pp. 1-3)

Von SCHNITZLER further states:

"That I stated to the investigators in 1945 was true to the best of my recollection and belief at that time. However, since then I have talked to some of my colleagues who were better informed of these matters than I was and I must conclude I made certain errors which I certified as the truth to the Allied investigators.

"4. Between 18 February 1947 and the present time, representatives of the Office of the Chief of Counsel for War Crimes showed me many of the statements and interrogations to which I had subscribed in 1945. I have been asked to point out any falsehoods or errors which I made in these statements or interrogations. I have stated to them under oath that I had made no false statements, because the statements I made were true to the best of my knowledge and belief at the time that I made them in 1945. However, where I unintentionally made errors in these statements, I have pointed out these errors. The errors I now find after re-reading the statements or interrogations mentioned below are set forth below:..." (pp. 3-4)

On this record alone, the claim of "duress" is so utterly lacking in any foundation that we deem it frivolous to say the least. The 1947 affidavits are full of corrections of substance, of supplementation, of typographical or grammatical errors, and each page of these affidavits bears von SCHNITZLER's initials at the bottom (to indicate that corrections and proof-reading had been completed). Von SCHNITZLER's own feelings of the openness and fairness of the method of interrogation, of making "corrections", etc., is displayed throughout the record before us. In the first interrogation in Nurnberg, von SCHNITZLER said to his interrogator:

"If you will do me a favor that we can go over these points, because I had in the meantime time to think that over and over again, then we can discuss the matters in detail" (Von SCHNITZLER Exh. 28, Von SCHNITZLER DB 2, p. 26).

And when asked if he would now disclose any untruths in his 1945 statements, von SCHNITZLER replied:

"Yes, I will do that. That means I will go over with you, if you give me the possibility, the points in which I was erroneous" (p. 27).



These statements were made on 16 February 1947. Since the materials which von SCHNITZLER had written, mostly essays as the Tribunal will note, were very voluminous, the process of interrogation and the process of interrogation correction, supplementation, etc., went on through the balance of February and most of March. By 24 March 1947, von SCHNITZLER was asking for interrogations for quite another reason than his interrogator had ever imagined to be true. The interrogation of this date opens as follows (FE 1812):

"Q. This is a continuing interrogation. Dr. von Schnitzler has been sworn since the first day. Now, Doctor, Mr. Wolffsohn told me that this morning you said you had something you wanted to bring to my attention. I don't know precisely what you have in mind. As I told you before that is your privilege, so will you tell me in your own way what you have in mind?

"A. Yes, during the week-end I have re-read all the records again and I have re-read just as well the statements of Dr. ter Meer and the notes I have received from Kransberg. After a long and serious consideration I feel obliged to give you some narratives of all the happenings in Kransberg because that cannot be separated from the entire problem" (p. 1).

Von SCHNITZLER goes on to talk about the difficulties which he and SCHMITZ faced upon being transferred to Kransberg prison where he was subjected to "moral pressure" by his technical Vorstand colleagues because of his recent dealings with the investigators. When asked if this was not a "slightly uncomfortable situation" von SCHNITZLER replied:

"It was terrible. Much worse than the months I have spent here in Nurnberg. I can't begin to describe it" (p. 9).

Von SCHNITZLER then goes on to state that in making some of the corrections which he had made in 1947 to his 1945 statements that the corrections were often in fact based upon statements his technical colleagues made in Kransberg prison in early 1946 rather than upon his own knowledge. The proof of this is scattered throughout this interrogation (FE 1812; see particularly pp. 8-10). In an affidavit sworn to on 27 March 1947 (three days after von SCHNITZLER's revelation about the "moral pressure" in Kransberg at the hands of his technical colleagues), we see a different approach by von SCHNITZLER in making supplements to

his 1945 statements (PE 18):

"On my statements on V/W, I would like to point out the following. I am certain that if I had been in seclusion during the entire period of the last one and a half years and would be asked the same questions today, then I would make these statements exactly in the same words as I did in the summer of 1945. (Our emphasis) But having been together with my technical colleagues in Gransberg, having received so much information from them and having Dr. Fritz ter Meer's statement of 30 March 1946 concerning V/W at hand, I must now make certain corrections on the basis of this information from my technical colleagues and state that I perhaps made V/W more important than it really was. On the other hand I have no explanation myself for the fact that one of I.G.'s first technical men, Prof. Dr. Karl Krauch, was made head of this section if it were so unimportant as my technical colleagues say. I must thus answer that I have no explanation, because in my own field or domain I would never have put one of my first men on an unimportant job. Not only was Krauch placed to head V/W when it was created, but when Krauch was transferred to other jobs, he was succeeded as the head of V/W by Gustav von Brüning, who was considered a first grade technician and one of I.G.'s future factory leaders" (p. 12).

Therefore, the Tribunal in reading some of the "qualifications" in the 1947 affidavits executed before 24 March 1947, should bear in mind that von SCHNITZLER's own recollection and belief would leave many of the statements without the 1947 qualifications. We think that with the assistance of the contemporaneous documents, the Tribunal will be greatly assisted in gauging which of the 1947 supplements are really von SCHNITZLER's and which derive from the "inspiration" von SCHNITZLER got from his technical colleagues in Kramsberg.

(64) After the 1947 interrogations and after the process of executing affidavits in 1947 was nearly over (late March 1947), von SCHNITZLER was transferred to the Dachau internment camp for more than three weeks. Just after his return to Nurnberg prison on the first or second of May 1947, he was asked (PE 1813, p. 2):

"Q. Now has anything occurred during that time which in any way causes you to have any further remarks concerning your statements made here and in interrogations which we had together?"

"A. Nothing, Mr. Sprecher, except the name of Sir William Larke, who was called William

and not Francis as I said erroneously. And then one other thing again..." (Here von SCHNITZLER adds three or four sentences concerning his discussion with Mueller-Gunradi and the gassing of inmates in Auschwitz concentration camp, which has been quoted immediately above under "Knowledge of the Extermination Program in Auschwitz and Farben's Connection Thereto".)

Given such freedom of expression in making statements and in making revisions to these statements over a long period of time, there is really nothing further to discuss concerning the value of and the weight to be attached to such as von SCHNITZLER's statements as constitute admissions. The admissibility of statements by defendants in war crimes trials has been universally approved. It has been confirmed by this Tribunal after argument and reargument which is scattered throughout the formal papers arising from defense motions and in the transcript of the proceeding itself.

5. Proposed Findings of Fact With Respect to the Guilt of Georg Von SCHNITZLER. The evidence has established beyond a reasonable doubt, the guilt of the defendant Georg von SCHNITZLER on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant von SCHNITZLER under each of these Counts, is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of von SCHNITZLER during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) Von SCHNITZLER's activities as one of the leading officials of Farben, including his activities as member of the Vorstand from 1933 to 1945; as the first commercial leader of Farben during this whole period; and as a member of the Central Committee during this whole period.

(b) Von SCHNITZLER's activities in other capacities, including his activities as member of the Greater Advisory Council of the Reich Group Industry, and Chairman of the



Economic Group Chemical Industry.

(c) Von SCHNITZLER's activities carried on through the instrumentality of Farben, and through his positions in the Government, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. Von SCHNITZLER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedom. Von SCHNITZLER knew this for a number of reasons:

(a) Von SCHNITZLER knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to von SCHNITZLER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in von SCHNITZLER's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the

nature of the activities carried on by von SCHNITZLER and the timing of such activities, established that von SCHNITZLER knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by von SCHNITZLER at which the aims of the Nazi leaders were expressed, and von SCHNITZLER's own statements on various occasions, are sufficient in and of themselves to establish that von SCHNITZLER had the required state of mind.

(e) Von SCHNITZLER's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to von SCHNITZLER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, von SCHNITZLER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant von SCHNITZLER.

(a) As a matter of law, even if the facts established that von SCHNITZLER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that von SCHNITZLER acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant von SCHNITZLER knowingly participated in plans to spoliage and in spoliating the chemical industries of occupied countries.

2. Von SCHNITZLER bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical

industries throughout Europe. Von SCHNITZLER played an especially active role in the plunder and spoliation of property in Poland and France and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant von SCHNITZLER.

(a) As a matter of law, even if the facts established that von SCHNITZLER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that von SCHNITZLER acted under duress or coercion in carrying out any of the activities specified above.

### Count III

(Section A and C)

1. Von SCHNITZLER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. Von SCHNITZLER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of von SCHNITZLER were, to von SCHNITZLER's knowledge, ill-fed, ill-clothed, ill-housed, mistreated,



beaten, and murdered.

5. Von SCHNITZLER continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

6. The alleged defense of duress or coercion is not available to the defendant von SCHNITZLER.

(a) As a matter of law, even if the facts established that von SCHNITZLER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that von SCHNITZLER acted under duress or coercion in carrying out any of the activities specified above.

#### Count III

##### (Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. Von SCHNITZLER participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. Von SCHNITZLER knew that human beings in concentration camps were being exterminated by gassing.

4. Von SCHNITZLER either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

#### Count V

1. The foregoing activities were engaged in by the defendant von SCHNITZLER in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other

countries by force their land, their property, and their personal freedom.

2. The defendant von SCHNITZLER, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.

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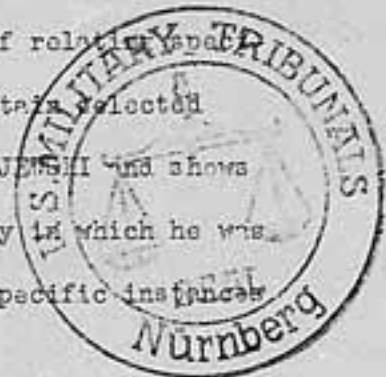


1. Charges in the Indictment. The defendant GAJEWSKI is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation constituting War Crimes), Count III (Slave Labor constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to commit Crimes against Peace).

2. General Nature of the Evidence Supporting These Charges.

(a) As a Sparte leader, member of the Central Committee of the Verstand, and as deputy chief of the Technical Committee (TEA), GAJEWSKI bears a major responsibility for the activities of Farben and of the Economic Group Chemical Industry during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, GAJEWSKI bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

(b) These charges against the defendant GAJEWSKI are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant GAJEWSKI sets forth certain selected highlights in the activities of the defendant GAJEWSKI and shows the general nature of the broad field of activity in which he was engaged during the period 1933 to 1945. These specific instances



should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. GAJEWSKI's Positions from 1933 to 1945.

(a) GAJEWSKI was a member of the Vorstand and a member of its Central Committee from 1933 to 1945 (PEs 289 and 290). He was Chief of Sparte III after 1929, a member of the TEA, and deputy chairman of the TEA (PE 289).

(b) In the Economic Group Chemical Industry, he was chief of the Advisory Board in the Sub-Group for Chemical Production of Artificial Fibres, and on the committee for cellulose production. He was a Military Economy Leader and received the decorations of War Service Cross, 1st and 2nd Class (PEs 289 and 290). He was a member of the Nazi Party since 1933. He admitted that he was not "forced" to join because of his position in Farben. He took the initiative to have his membership dated back retroactively (Tr. 6316). He attended the Party rallies at Kurnberg and had an SS escort there (PE 1950).

4. Certain Specific Activities of GAJEWSKI During the Period 1933 to 1945. The Tribunal is requested to frequently "cross-reference" its study of this individual brief on GAJEWSKI with the year-by-year narrative under "Part VI-B - Carl KRAUCH", pages 6 through 27, supra, since the individual brief on KRAUCH gives considerable material on the progression of rearmament in Germany and Farben's particular role at crucial points in this progression.

a. COUNT I - CRIMES AGAINST THE PEACE

(1) As a member of the Central Committee of Farben, GAJEWSKI approved of Farben contributions, of over 40,000,000 RM, to the Nazi Party and its organizations, between 1933 to 1945 (PEs 80, 77, 78, 79, and 797). He knew of and as a member of the Central Committee authorized 100,000 RM contribution of 22 September 1938 to the Sudeten Free Corps (PE 797).

(2) In the Vermittlungsstelle W, Sparte III had its own representative who was responsible to the defendant GAJEWSKI (PEs 141 and 142). In the counter-intelligence unit of the Vermittlungsstelle W, a Herr Marbeck was appointed chief (Tr. 6631). GAJEWSKI knew that Marbeck was a member of the Gestapo, at the time he approved of his appointment (PE 1951; Tr. 8318).

(3) As a member of the Vorstand and TEA, GAJEWSKI knew of the construction and increase of facilities for the production of material for the Armed Forces of Germany. He did not dissent at any of the Vorstand meetings when these matters were approved. He had particular knowledge of the detailed steps that were taken by Farben, for he received, as head of Sparte III, a copy of each proposed contract from the Central Department of Contracts (Tr. 6639).

(4) In his own technical sphere in Sparte III, he was in charge of production of artificial fibre, rayon, silk, and the Agfa film plants. The production of these products which have an admitted peacetime use, were substantially increased to supply the needs of the growing German Army. Thus, in February 1935, GAJEWSKI already planned reopening the Bobingen plant for the production of rayon, and stated: "In the event of war, there is no doubt that we shall need tremendous quantities of rayon also" (PE 1946). And in the preparations for reopening the plant, the details of air raid protection were dealt with.

(5) In December 1937, GAJEWSKI told his associates of the confidential work he was doing for the War Ministry and Air Ministry in the field of synthetic rayon. He told them of the tests made with the Air Ministry with artificial silk for use in parachutes; of the tests made with the High Command of the Army with synthetic rayon for use in barrage balloons; of the use of Agfa silk for cartridge pouches; of the use of Agfa silk in tests for fuses; of its use for airplane covers and gunpowder sacks, and finally for use of Agfa silk in gas mask manufacture (PE 1946; Tr. 8310). On the witness stand, GAJEWSKI denied that the plants had anything to do with rearmament (Tr. 8211, 8217).



(6) On 20 September 1938, the Vermittlungsstelle W issued instructions on the transportation orders and deliveries to be taken in case of mobilization, and stated:

"In the first days of mobilization, the Reichsbahn will accept goods for shipment only when transportation orders for them are presented"

and such orders had to be secured from the Military Economy Inspection Office (PE 223). Four days later, on 24 September 1938, the Vermittlungsstelle W issued instructions that:

"War plants essential to the war effort should (fill out a form) appended to the mobilization task, the average amount of transport required by them in case of mobilization" (PE 224).

(7) In September 1938, GAJEWSKI secured permission to build a new film factory at Landsberg, "in order to enable the Air Force to cover its requirements of aerial film in accordance with the demands of the Reich Air Ministry" (PE 1947). GAJEWSKI testified that this was "window-dressing" (Tr. 8313).

(8) In July 1939, GAJEWSKI was discussing with his staff at Wolfen the steps to be taken with respect to the operation of the plants "in case of war", including transfer of housing accommodations nearer the plant, closing down and converting parts of the plants, personnel matters, gas masks, air raid drills, etc. (PE 1948).

(9) In July 1939, Sparte III's Vermittlungsstelle W received instructions regarding mobilization preparations in regard to plants important to the war economy, and specific instructions for change over from certain types of fuels to others were given. The instructions contained these additional remarks:

"The necessary measures have to be taken in peacetime. Industry cannot rely with certainty on the allotment of Diesel fuel to built-in plants and of fuel oil in wartime" (PE 233).

(10) On 26 August 1939, Farben's Central Purchasing Department sent GAJEWSKI a detailed list of products entitled, "Study of changes in purchasing in case of war". This list of critical items indicated the quantity imported in Germany in 1938 and the source, and as to each item, a comment such as "enemy group - French, British, American" and "obtain from neutral countries", etc. (PE 1949). This document is

quite significant in showing the extent of preparation for war, as it indicates particular countries considered as "enemy group in case of war". While the document in evidence is the copy addressed to GAJEWSKI, the contents indicate that the men of Sparte II, as well as Sparte I, must have received similar notices and discussed it with Dr. Struss of the TEA. Note also PE 742, HI-8364, the letter of the Vermittlungsstelle W of 12 August 1939, transmitting instructions from the Reich Plenipotentiary for Chemistry of 2 August 1939, which states:

"The basic principles should be that the raw and auxiliary materials necessary for the execution of the mobilization orders issued to you .... will be held in stock by you for a certain period. In agreement with the Reich Ministry of Economics, I accordingly direct you to stockpile that amount of the raw and auxiliary materials indicated by you as necessary for the execution of the mobilization order, which would cover the requirements for three months .... It is incumbent upon you to register as priority transports the quantities of these materials required for the first four weeks from the beginning of mobilization with the military economic department concerned .... Please inform me as soon as possible that the directives issued to you for stockpiling have been carried out".

(11) In the administrative organization of Farben in the three Sparten, Dynamit A.G. was placed under Sparte III. The defense have dealt with one question of Farben's relationship with Dynamit A.G. as involving all defendants (Tr. 5952). The defendant GAJEWSKI is not the only defendant involved in this matter, but the entire Vorstand, particularly SCHMITZ, ter MEER, AMEROS, and others to be noted. For these reasons we have dealt at length with "the explosives interests" (as von SCHMITZLER (PE 361) referred to the DAG group in August 1937) under "E. Explosives" of Part II of this final brief, pp 39 thru 55.

(12) GAJEWSKI was not a person who kept his eyes closed, particularly where Farben was involved. In June 1935, GAJEWSKI, as a member of the Aufsichtsrat of Wolff & Co., a Farben subsidiary producing explosives, in executing the secrecy pledge pertaining to disclosure of its dealings with the Wehrmacht, inserted a specific reservation, that he "must inform the Central Committee of Farben of which I am a member" (PE 1935).

#### THE WAR YEARS

(13) GAJEWSKI continued to play his role in Farben when preparation for aggression changed to maintaining a war machine engaged in successive wars of aggression. The TEA, of which he was deputy chairman, still had to approve the "credits" for the war projects and for the projects of spoliation in occupied countries. Securing manpower for Sparte III plants had to be justified in terms of their necessity for waging the war.

#### b. COUNT II - PLUNDER AND SPOILIATION

(14) GAJEWSKI participated regularly in the Vorstand and TEA meetings when the various spoliation projects came up for planning or approval. He frequently attended Commercial Committee meetings where these matters were also discussed. A few examples are noted below:

#### France

(15) GAJEWSKI participated in the Vorstand, TEA, and KA meetings where the take-over of Francolor and the Rhone-Poulenc agreements were discussed (PE 1270, Vorstand meeting of 12 December 1940 where MANN particularly reported on Rhone-Poulenc; PE 345, the TEA meeting of December 1940, where Francolor was discussed; PE 1632, the Commercial Committee meeting where the discussion involved Francolor and Rhone-Poulenc). He thus knew of the steps contemplated and authorized them.

(16) The defendant GAJEWSKI's interest in taking over property in France related particularly to the interests of the Kodak-Pathe firm. His representatives attended meetings at the Reich Ministry of Economics where the New Order provisions were drawn up relating to France, and particular provision was made for the taking over by German interests of the French film companies, including the American Kodak (PE 1051, at pp 19 and 41). GAJEWSKI, through an affiant, suggested that he went out of his way to supply coal to the Kodak factories in Paris. But cross-examination disclosed that in fact GAJEWSKI and his colleagues got in touch with the German authorities in France and suggested that "difficulties be made for Kodak so that Kodak would



not be able to supply unoccupied France and the rest of Europe from Paris" (PE 2320, Tr. 11833-11836).

#### Norway

(17) GAJEWSKI attended the meetings of the Commercial Committee and the Vorstand where the plans and preparations for taking over the magnesium plants in Norway were discussed and approved (PEs 1623, 1193, and 1200). Details of the spoliation case Norway have been discussed in the Preliminary Memorandum Brief, Part II, pars. 26 and 27, and in this brief, Part III-B, supra.

#### c. COUNT III - SLAVERY AND MASS MURDER

(18) Defendant GAJEWSKI was the chief of Sparte III, which included seven plants. The Central Office of the Sparte, which was likewise defendant GAJEWSKI's office, was at the Wolfen-Film plant in Wolfen (Tr. 8192). As plant leader of the Wolfen-Film plant combine, defendant GAJEWSKI was responsible for questions of social welfare of the workers at these plants. The evidence shows, for example, that the Social Welfare Department at Wolfen Film circularized these plants concerning the authority to enforce discipline by reducing the rations of Eastern workers (PE 1399).

(19) As plant leader defendant GAJEWSKI was a member of and regularly attended the Plant Leaders Conferences which dealt with questions of policy on social welfare matters and which were called by defendant SCHNEIDER, the chief plant leader of Farten (PEs 1329 and 1350). He knew that in the plants for which he was responsible slave labor was employed, and at Wolfen he admitted that towards the end one-half of the workers, or about 5000, were foreigners (Tr. 8246). He also knew precisely what the employment status was at all of the plants for which he was responsible inasmuch as he received detailed lists indicating the number and nationality of the foreign workers employed in such plants (PE 1956). Defendant GAJEWSKI regularly attended the TEA meetings where the charts containing the figures on the employment of slave labor were shown (PEs 1318, 1557 and 1558). He admitted that at the TEA meetings he learned of the employment of

concentration camp inmates at the Auschwitz Farben Buna plant (Tr. 8248).

(20) The Decree introducing compulsory labor in Poland followed closely the occupation of Poland by the Wehrmacht and was introduced 26 October 1939 (PE 1298). The minutes dated 14 May 1940 of the meeting of the Wolfen-Film Management show that applications for Polish male and female workers were approved (PE 1899). And the minutes of the Wolfen-Film Management meeting held on 18 June 1940 show that the second transport of Polish female workers had arrived (PE 1900). As to workers from the West, defendant GAJEWSKI testified vaguely that he <sup>after</sup> knew/awhile that they did not come voluntarily (Tr. 8243, 8245).

(21) That concentration camp inmates were employed in plants of the Wolfen-Film Combine is shown by the evidence (PEs 1401, 1403, and 1405). In the case of inmates employed at Camerawerk Munich, Farben's initiative extended even to a personal selection of inmates to be employed by them (PE 1406). This same plant also requested the Labor Office to pronounce the drafting for labor of 12 female Poles who had been employed at Munich as Polish criminal prisoners from Stadelheim prison and whose sentences were about to expire (PE 1404). Defendant GAJEWSKI admitted knowledge that concentration camp inmates were employed at Wolfen (Tr. 8250). He testified that he did not take the initiative, however, but that when he first was approached by the SS and the latter suggested the use of concentration camp inmates, that he (GAJEWSKI) did not object because "we simply did not have enough workers any longer" (Tr. 8252). He was afraid, he said, he would be accused of sabotage if he did not take the concentration camp workers (Tr. 8252). His own estimate is that about 400 concentration camp inmates worked in his plant and he stated: "I saw them in my tours through the plants" (T. 8253), "and thought it better for them to work in a plant than sit in a penal camp (Tr. 8258).

(22) On the witness stand the defendant GAJEWSKI insisted that there was no mistreatment and that he personally went out of his way to see that the foreign slave labor was well-treated. Notwithstanding

the foregoing, the documentary evidence shows that of 500 Russian prisoners-at-war that were employed in the plants directly under GAJEWSKI, 200 of them died from mistreatment and overwork at those plants and that GAJEWSKI was informed as to this: "The numerous deaths, as well as the poor state of health, can be blamed on malnutrition on the one hand, and on the heavy labor which the Soviet Russians are expected to do on the other. We, (Farben) are said to have a share in this too" (PEs 1954 and 1953, Tr. 8322, 8323).

(23) There was no hesitancy to enforce discipline by reducing rations of Eastern workers (PE 1399).

(24) His overall defense to the employment of foreign slave labor, as well as prisoners-of-war and concentration camp inmates, is summed up by the following testimony of his:

"We had definite government production orders and they determined the extent of our production. As a plant leader, I was responsible for filling these orders. I was personally responsible, since in spite of our objections, the labor offices did not give us enough German workers. There was no other choice but to accept foreigners; otherwise, because of lack of workers, we would have not been able to fill our production orders" (Tr. 8245, 8246).

He then testified that as to his case personally, there were "special circumstances different from that in which every German industrialist found himself" (Tr. 8247). He testified:

"I said at the beginning that I had repeated clashes with the Party and that I also had some contact with the Gestapo. Therefore, I had to be especially careful. I had to fear that conduct which be interpreted as sabotage of government measures which would involve the most serious consequences for me" (Tr. 8247; see also Tr. 8253).

The reference to the personal clashes with the Gestapo is wholly unrelated to this problem, as they arose from his personal skirmishes with his former plant manager, SS Brigadier General Schieber (PE 1952, Tr. 8231). GAJEWSKI apparently was not troubled about the possible consequences of sabotage as he was engaged in what he called "window-dressing" to get materials. He said that he could not get critical steel to construct a new factory unless he represented to the German



authorities that the factory was to produce items needed by the Wehrmacht (Tr. 8313). Does he mean to say that he didn't use "padding" on the war importance of his factories to assist in getting slave laborers?

d. COUNT V - CONSPIRACY

(25) The comments made in the individual brief on the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant GAJEWSKI.

5. Defenses Interposed by GAJEWSKI.

(a) GAJEWSKI's defenses raise little, if anything new. Insofar as we believe them to have substance, they have been discussed in more appropriate contexts.

(b) In measuring GAJEWSKI's personal defense, the Tribunal will recall that this defendant on the witness stand told a story of having continuously gotten in trouble with the Gestapo and SS because of his opposition to the practices of the Nazi Party, and that at great personal risk he befriended various Jewish persons. He then submitted affidavits of a number of such persons whom he allegedly befriended. He particularly referred to a former colleague, Ollendorf (Tr. 8181). Cross-examination developed that Ollendorf was arrested by the Gestapo on GAJEWSKI's order, and after his arrest and incarceration in a concentration camp, GAJEWSKI helped him get out, and he never told that affiant, whose affidavit he submitted, that he, GAJEWSKI, caused his arrest and detention in a concentration camp (Tr. 8325-8327).

6. Proposed Findings of Fact with Respect to the Guilt of Fritz GAJEWSKI.

The evidence has established beyond a reasonable doubt, the guilt of the defendant Fritz GAJEWSKI on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant GAJEWSKI under each of these Counts is predicated upon the following facts which have been established by the proof.

Count I

1. The following activities of GAJEWSKI, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) GAJEWSKI's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1933 to 1945; as a member of the Central Committee during this whole period; and as Chief of Sparte III during this whole period.

(b) GAJEWSKI's activities in the explosives industry, including his activities as a member or chairman of the Aufsichtsrat of Dynamit A.G. (DAG).

(c) GAJEWSKI's activities carried on through the instrumentality of Farben, and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stock-piling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. GAJEWSKI participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedom. GAJEWSKI knew this for a number of reasons:

(a) GAJEWSKI knew that this had been the program of the Nazi Party since the early 1930's, and beginning in 1933 it was clear to GAJEWSKI that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in GAJEWSKI's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by GAJEWSKI and the timing of such activities, established that GAJEWSKI knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by GAJEWSKI<sup>at</sup> which the aims of the Nazi leaders were expressed, and GAJEWSKI's own statements on various occasions, are sufficient in and of themselves to establish that GAJEWSKI had the required state of mind.

(e) GAJEWSKI's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to GAJEWSKI; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, GAJEWSKI knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant GAJEWSKI.

(a) As a matter of law, even if the facts established that GAJEWSKI acted under duress or coercion, this would be no defense.

(b) The facts do not establish that GAJEWSKI acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant GAJEWSKI knowingly participated in plans to spoliage and in spoliating the chemical industries of occupied countries.



2. GAJEWSKI bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. GAJEWSKI played an especially active role in the plunder and spoliation of property in France.

3. The alleged defense of duress or coercion is not available to the defendant GAJEWSKI.

(a) As a matter of law, even if the facts established that GAJEWSKI acted under duress or coercion, this would be no defense.

(b) The facts do not establish that GAJEWSKI acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Sections A and C)

1. GAJEWSKI knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. GAJEWSKI took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of GAJEWSKI were, to GAJEWSKI's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

5. GAJEWSKI continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant GAJEWSKI.

(a) As a matter of law, even if the facts established that GAJEWSKI acted under duress or coercion, this would be no defense.

(b) The facts do not establish that GAJEWSKI acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. GAJEWSKI participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. GAJEWSKI knew that human beings in concentration camps were being exterminated by gassing.

4. GAJEWSKI either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

1. The foregoing activities were engaged in by the defendant GAJEWSKI in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.

2. The defendant GAJEWSKI, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.

F. - PHILIPP HEINRICH ROERLEIN

1. Charges in the Indictment. The defendant ROERLEIN is indicted under Count One (Crimes against Peace), Count Two (Plunder and Spoliation constituting War Crimes), Count Three (Slave Labor constituting War Crimes and Crimes against Humanity), and Count Five (Conspiracy to commit Crimes against Peace). The defendant took the stand in his own behalf (Tr. 6135, et seq.).

2. General Nature of the Evidence Supporting These Charges. ROERLEIN bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, ROERLEIN bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant ROERLEIN are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including a Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant ROERLEIN sets forth certain highlights in the activities of the defendant ROERLEIN and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. ROERLEIN's Positions from 1933 to 1945. The positions which the defendant ROERLEIN held in the financial, economic, and political life of Germany from 1933 to 1945 are set forth in some detail in FE 295, 296 and



1616 (see also testimony of HOERLEIN, Tr. 6141 and 6145, et seq.). The following positions held by HOERLEIN during these years are of special significance:

- (a) HOERLEIN was a full member of the Vorstand from 1931 to 1945.
- (b) HOERLEIN was a member of the Central Committee from 1933 to 1945.
- (c) HOERLEIN was a member of the Technical Committee from 1931 to 1945.
- (d) HOERLEIN was manager of the Elberfeld Plant from 1931 to 1945 (Plant Leader from 1933 on).
- (e) HOERLEIN was deputy chief of Sparte II from 1933 to 1945.
- (f) HOERLEIN was Chairman of the Pharmaceuticals Main Conference of Farben from 1932 to 1945.
- (g) HOERLEIN was a member of the NSDAP from 1934 to 1945; member of the DAF from 1935 to 1945; member of the National Socialist Bund of German Technicians from 1936 to 1945.
- (h) HOERLEIN was appointed Military Economy Leader in 1941.

4. Certain Specific Activities of HOERLEIN during the Period from 1933 to 1945. To place the specific activities outlined below in fuller context with the progression of events in Hitler's Germany and in Farben, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual section with the year-by-year narrative under "B - Carl KRAUCH" above and "H - Fritz TER MEER" below. Since TER MEER was Chief of Sparte II and since HOERLEIN was deputy chief of Sparte II, the brief on TER MEER should be particularly helpful.

#### a. COUNT J. L. CHILDS AGAINST THE PEACE

(1) Although HOERLEIN specialized in the field of vaccines, sera, pharmaceuticals, and poison gas, still as a member of the Vorstand, the Central Committee, and the TEA, during the whole period from 1933 to 1945, he was informed of, and he authorized, approved, or ratified, all major activities of Farben during this period. From 1933 to 1945, the Central Committee made contributions totalling more than 13,000,000 Reichsmarks to

the Adolf Hitler Fund (PEs 77, 78 and 79). The contribution by Farben to the Nazi Party and Nazi party organizations during this period amounted to 40,000,000 Reichsmarks (PE 80). HOERLEIN was informed of, and attended, several meetings relating to the initiation, or intensification, of air raid precautionary measures during the period from 1933 to 1939 (PEs 171, 173, 174 and 178). In 1934, HOERLEIN joined the NSDAP. In January 1934, a meeting of the Bayer directors decided to mail propaganda material (including copies of Hitler's speech to the Reichstag) to 16,000 physicians in South America (PE 783; see Tr. 6151). HOERLEIN was informed of the results of the Technical Commission at Hoechst in November 1934, which recommended participation in the training courses of DINTA (German Institute for National Socialist Training and Research), and pointed out that their value lay less in a technical field than in the field of ideology (PE 89). In March 1934 he represented Farben at a meeting of the Reich leadership of the NSDAP concerning the bill for a new drug law (PE 1860).

(2) Beginning in 1934 or 1935, Farben registered the most powerful toxic substances, which might be important for war purposes, with the Army Ordnance Office. Cooperation regarding these "most powerful toxic substances" was held between the OKW, the Army Ordnance Office, and Farben. These toxic substances were tested at the Industrial Hygienic Laboratory at Elberfeld, under the supervision of the defendant HOERLEIN. The substances with the higher toxic content, were forwarded after testing to the Army Ordnance Office. Various deadly poison gasses were developed by Farben during the years from 1935 to 1939. From about 1937 on, experiences were exchanged between Army Ordnance and Farben regarding some of the most deadly poison gasses, such as Tabun, and Sarin (PE 296). See also PEs 350, 618, 653, 654, 656, and 638. In September 1935, the Central Committee (of which HOERLEIN was then a member) decided to create the V/W in order to provide systematic cooperation within the I. G. in the current development of military economy, military policy, and military technique (PE 101). For more detailed information concerning the work of the V/W, see the Preliminary Memorandum Brief of the Prosecution, and PEs 99, 139, 141, 142, 145, and 148. In January 1936, Section A was

established within the V/W to deal with counter-intelligence matters (PE 145). As early as 1935, Farben on its own initiative, began conducting experiments for the production of Hexogene in collaboration with OKH (PE 110).

(3) The activities within Farben in the year 1936, in connection with the preparation for war, have already been discussed at some length in other sections of this brief. It is clear that HOERLEIN knew of all the major developments during this year, and authorized, approved, and ratified, the general course of action pursued by Farben in keeping step with the greatly accelerated pace of actions of the Government. From October 1936 until the beginning of the war, credits submitted to the TEA were divided into those connected with the Four Year Plan and those not required by the Four Year Plan (PEs 680 and 770). HOERLEIN as a member of the Central Committee, the Vorstand, and the TEA, knew of, authorized, and approved Farben's vast program for the construction of new plants, the cost of which during the period 1932 to 1941 was assessed at a Vorstand meeting at two billion Reichsmarks (PE 686).

(4) HOERLEIN participated in Farben's mobilization planning beginning at least in the early part of 1937. In April 1937, a letter from Farben's Elberfeld Plant to Farben's Hoechst Plant discussed "mobilization plans" and stated that "I have to inform you, after consultation with Professor HOERLEIN, that we shall have to postpone the scheduled conferences since, at present, we are still engaged in ascertaining our production capacity of those essential products which we shall presumably be called upon to deliver in case of war" (PE 196). In the same month, Farben's Legal Department sent a letter to the TEA Bureau concerning the attempt of Farben to acquire Tetrachlortitan in France, which was useful as a smoke-forming agent and as a carrier, which enabled poison gas to impregnate various parts of a house, etc. In the letter it is stated that "in the modern offensive and defensive war technique, Tetrachlortitan has actually assumed an outstanding position"; and added that "the present political situation makes the problem of producing artificial clouds more important than ever" (PE 632). In September 1937, the V/W sent a letter to various



Farben leaders, including ROERLEIN, concerning mobilization planning tasks. It was stated that the mobilization tasks should be divided into two main parts - (a) supplying the works with the necessary materials, and (b) guaranteeing the necessary personnel. Production plan proposals were requested, including current production plans and "production plan proposals for all works in the event of war" (PE 197). In November 1937, a conference on mobilization plans was held in Frankfurt, with the TEA represented. It was decided, among other things, that certain production should be transferred to other places. It was stated that certain information required by the V/W was to be submitted in a certain form and that "in the case of dyestuffs and pharmaceuticals" there was no need for submitting the data required by the V/W since the estimates could be made at the works and supplemented by the Office of the TEA (PE 198; see also PEs 119 and 200 and Tr. 6152).

(5) From the beginning of 1938, mobilization questions were the regular order of business in the meetings of the Technical Committee of Farben. The mobilization tasks, included contracts for items such as Sera, and poison gas decontamination substances (PE 254). Mustard gas experiments for the OKH were carried out by Farben in 1938 (PE 350). For the Vorstand members, the coming invasion of Austria was an "established fact" and the "short thrust into Czechoslovakia" was foreshadowed long before it happened (PEs 893 and 2014). On 22 September 1938, the Central Committee placed 100,000 Reichsmarks at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps, an auxiliary military organization formed to create disturbances and clashes on the Czech border (PE 834). On 30 September 1938, the defendant SCHMITZ sent a letter to Hitler, with a copy to the Office of the Central Committee, stating that Farben would place at his disposal one-half million Reichsmarks for use in the Sudeten German territory, on the occasion of the return of Sudeten Germany to the Reich (PE 1046; see Tr. 6211).

(6) In June 1939, the V/W sent a report to the office of the TEA and other Farben agencies concerning development and research work being done by Farben on Wehrmacht orders or in conjunction with the Wehrmacht.

The report referred to the increasingly large proportion of such work and discussed the State-owned production plants constructed and operated by Farben, or the so-called "shadow factories". With respect to these shadow factories, the report referred to plants having a purely research character, in which production would start "only in case of emergency" (PE 166).

On 15 March 1939, the date of the invasion of Bohemia and Moravia, a conference of the Mobilization Managers of Farben's plants was held, at which there were discussed problems relating to the mobilization of German industry in general, and Farben in particular; air raid precautionary measures; transportation requirements, assurance of manpower; security questions; preliminary work for turn-over from peace to war production, etc. (PE 239). In July 1939, the V/W sent a circular letter, with a copy to the office of the TBA, concerning supplying the armament industry with fuel in wartime. The letter, which was dated 12 July, stated that due to the urgency of the matter, it should be answered not later than 20 July (PE 233). In the same month, the V/W sent a secret circular letter to I. G. plants, including a copy to HOERLEIN at Elberfeld, concerning the food supplies in the A-Fall. Detailed information was requested concerning the number of workers who in the A-Fall would be fed by the works during one whole day, would be fed only one meal, would be evacuated from outlying districts; how workers in shadow factories would be fed, etc. The letter concludes, "We were again reminded that in view of the difficulties expected to arise in transportation and procurement, it was urgently desired that a suitable stock of provisions for three or four weeks would be held, taking into consideration the extent of personnel in the Mob-Fall" (PE 741). In August 1939, the Vorstand approved contributions of 50,000 Reichsmarks for the mobilization of the National Socialist Air Corps (PE 1047). On 14 September 1939, a special meeting of Sparte II was called to discuss the situation caused by the outbreak of war. HOERLEIN was present. It was stated that "the prepared mobilization program, which embraces all manufacture of I. G., became effective on 3 September 1939" (PE 265). In October 1939, after the Nazi campaign against Poland, HOERLEIN, together with the defendants AMBROS and TER MEER, was

called to a conference at the headquarters of the HWA (Army Ordnance Office) and informed about the situation concerning the chemical warfare (PEs 334, p. 7 and 350, item 14). In this conference also the production of the newest and deadliest poison gasses SARIN (Gelan) and TABUN was discussed.

(7) In discussing the role which he played during the period 1933 to 1945, whether in the field of preparation for war, or in the field of slave labor, the defendant HOERLEIN has on the one hand tried to rely on the so-called defense of duress or coercion; while on the other hand attempting to make himself out to be a hero who joined up with the Nazis and stayed with the Nazis in order to correct some of the evils of the Nazi system. Thus, in admitting that it was clear to him in 1935, that the Army Ordnance Office was interested in toxic substances being experimented upon at his Elberfeld plant, in order that chemical warfare agents might be developed therefrom, the defendant HOERLEIN states that, "What the Army Ordnance Office insisted on had its basis in law, and had I refused I would have faced dire penalties" (Tr. 6223). In admitting that he knew of the employment of concentration camp inmates at I. G. Auschwitz, the defendant HOERLEIN alleged that "the Vorstand had been informed, however, that this was an order" (Tr. 6207). While maintaining that his activities in the field of chemical warfare agents and slave labor were thus carried on under orders, the defendant HOERLEIN boasts of his alleged battles with the Nazi party officials in other respects where orders had also been issued. Thus, in speaking of his "fight for the freedom of science" (Tr. 6137), the defendant HOERLEIN mentions a decree issued by Goering in 1933 forbidding experimentation on animals, and how he had fought against this decree and eventually defeated it (Tr. 6164). In this connection, he states that "I claim that I was the representative who carried on the struggle in Germany against a hateful and powerful opponent" (Tr. 6164). The defendant HOERLEIN also mentioned his fight against the many regulations promulgated by the Government, stating that "I fought the Government and its intervention by so-called materials regulations and supply plans \*\*\* because as a liberal man I always was against the all-official Governmental interference in private and economic spheres" (Tr.



6154, 6155). On cross-examination, in speaking of his fight for the freedom of science, the defendant HOERLEIN stated, "and when I began my fight I was quite aware of the possible consequences, but if I saw my life's work threatened, then the consequences were quite insignificant for me whether I was sent to a concentration camp or not" (Tr. 6348). And finally, the defendant HOERLEIN tells of his resignation as the Betriebsfuehrer at the Elberfeld plant on June 30, 1941, stating, "When I resigned because I felt out of accord with the whole development of domestic and foreign politics. The declaration of war with Russia decided the matter" (HOERLEIN Exh. 5; Tr. 6345). The defendant HOERLEIN claims he joined the Nazi Party in 1934 because "as a Party member, I thought I was able to represent the interest of my plant and of German scientific research in a better manner" (Tr. 6165). The defendant HOERLEIN was a member of the Central Committee which was informed of and approved or ratified annual contributions of 100,000 Reichsmarks to the ~~Winnler~~ <sup>1586,</sup> Circle of Friends, beginning in February 1942. (See PEs 1584, 1585, 1591, 1592, 1594, and 1595.)

#### b. COURT II - PLUNDER AND SPOILIATION

(8) As a member of the Vorstand and of the Technical Committee, the defendant HOERLEIN knew of, approved and ratified Farben's program to take over chemical industries throughout Europe. Some illustrations follow.

(9) In the case of Poland, he attended the Vorstand meeting of 8 November 1939 where Farben's concentrated efforts to participate in the distribution of Polish property were being discussed (PE 2120).

(10) Soviet Russia. As a member of the Vorstand, defendant HOERLEIN received de Haas' report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (PE 1175).

(11) In the case of Norway, he attended the 24th meeting of the Farben Vorstand on 5 February 1941 where defendant HAEFLIGER and Moschel

reported on the far-reaching plans to use the Norwegian capacities for producing light metal for the German Air Force (PE 1193).

(12) Alsace-Lorraine: HOERLEIN was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine; Strasbourg, Merlebach and Diedenhofen (PE 2192).

(13) Francolor: As a member of the Farben Vorstand, he received the minutes of Farben's first meeting with the French industrialists in Wiesbaden on 21/22 November 1940 (PE 2195). He also attended the Vorstand meeting of 10 July 1941 where VON SCHNITZLER "gave a report on the negotiations which had been successfully concluded with respect to Francolor" (PE 1177). As a member of Farben's TEA (Technical Committee) from 1931 to 1945 (PE 295), he also attended the TEA meeting of 17 December 1940 where TER MEER, speaking of Francolor, reported that:

"An agreement was reached with the French dyestuff group whereby we are assured of decisive influence on French dyestuff production." (PE 345)

(14) Defendant HOERLEIN is particularly involved in the spoliation case Rhone-Poulenc. As Chairman of the Pharmaceutical Conference, HOERLEIN was present at the meeting of 11 October 1940 (PE 1266) where defendant MANN reported on Farben's plans with respect to Rhone-Poulenc. He received the minutes on MANN's discussions with Rhone-Poulenc from which the pressure used against this company most clearly appears (Tr. 13861). He attended the Vorstand meeting of 12 December 1940 where defendant MANN reported on the license agreement with Rhone-Poulenc which was contemplated for a 50 years' period (PE 1270). The Vorstand members present, among them defendant HOERLEIN, "agreed to this line of action." The license agreement itself was sent to him before it was signed (PE 1861). See also PE 2345, Farben's patent suggestions for France sent to him; PE 1275, second contract Bayer/Rhone-Poulenc, co-signed by HOERLEIN; PE 1277, his participation, on 3 July 1941, in negotiations with Rhone-Poulenc, aiming at a joint sales company. As to the individual steps taken by Farben and the defenses interposed, see Preliminary Memorandum Brief (P. 42 et seq.), and this brief, Part III-C, supra and Part VI-R (individual responsibility of defendant MANN).

c. COUNT III - SLAVERY AND MASS MURDER  
(Sections A and C)

(15) Defendant HOERLEIN was a member of the Vorstand, the TEA and the Plant Leader of the Farben Wuppertal-Elberfeld plant. As Plant Leader of Wuppertal-Elberfeld, defendant HOERLEIN was responsible for the social welfare matters at that plant. The evidence indicates the interest and knowledge which he had concerning the employment of foreign workers, P.W.'s, etc. at the policy level. PEs 1370 and 1371 consist of minutes of the conferences of Technical Department chiefs at Leverkusen and of directors' conferences held at Leverkusen. An examination of PE 1371 will show that defendant HOERLEIN attended many directors' conferences wherein the matter of labor questions, labor procurement, etc. were prominently discussed. See minutes of 10 March 1941, 11 November 1941, 28 February 1942, 2 February 1943, 23 March 1943, 4 May 1943, and 14 September 1943. In the main, when HOERLEIN himself did not attend such meetings, the deputy plant leader of Wuppertal-Elberfeld, Lutter, attended.

(16) Under date of 11 July 1942 there emanated from the Social Department of the Leverkusen plant, as the chief plant in the Lower Rhine Combine, a letter to all department chiefs, plant managers and office supervisors re the employment of Russian male and female workers. It is noted that these workers are called Eastern workers and they are those workers who do not belong to the ethnic German group who are taken (or collected) in the Reich Commissariat Ukraine, in the General Commissariat White Ruthenia or in the districts on their Eastern borders or on the borders of the former free states Latvia and Estonia, and who after the occupation are brought to Germany by the German Wehrmacht and employed there (PE 1373).

(17) As a member of the TEA defendant HOERLEIN participated along with the other members in the recommendation of credits for the approval of the Vorstand to house tens of thousands of forced workers. As a member of the Vorstand he also approved such credits. The evidence shows that as early as November 1941 practically everybody in Germany knew that foreigners were being forced to come to Germany to work (PEs 1318 and 1491).

(18) Aside from the knowledge gained of Auschwitz from discussions in the TEA, the evidence indicates that HOERLEIN with other TEA members



received minutes of the TEKO meetings in which, among other things, the allocation of key personnel to Auschwitz was discussed (PEs 2056, 2057 and 2058). For further discussion of responsibility of HOERLEIN for activities at Auschwitz, see Part I and Part IV of this brief.

(19) Defenses interposed by HOERLEIN: On cross examination defendant HOERLEIN admitted that he did not shut his mind to the figures represented by the figures on the chart, such as so many prisoners of war, so many concentration camp workers, and so many foreign laborers. In connection with the proper employment of foreign labor under the Hague and Geneva Conventions, defendant HOERLEIN testified on cross examination he assumed that in all Germany the provisions in effect were always adhered to and interpreted in the proper way. When asked whether he thought this was the case after March 1942 when Sauckel became Plenipotentiary General for Labor and began some of his recruiting activities, HOERLEIN did not answer the question forthrightly but stated, among other things, that he was not particularly interested in labor questions (Tr. 6358).

d. COUNT III - MEDICAL EXPERIMENTATIONS UPON ENSLAVED PERSONS  
(Section B)

(20) The evidence establishing that HOERLEIN was a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving medical experiments upon human beings without the subject's consent, is summarized in the Preliminary Memorandum Brief. The Preliminary Memorandum Brief outlined the evidence introduced in the Prosecution's Case-in-Chief with respect to three major series of criminal experiments:

(a) those conducted in the Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines;

(b) those conducted in the Buchenwald concentration camp to determine the efficacy of Farben chemo-therapeutica, Acridin "3582," Butenol and Methylene Blue, in the treatment of typhus;

(c) those conducted in the Auschwitz concentration camp to determine the efficacy of the Farben chemo-therapeuticum Acridin "3582" in the treatment of typhus.

(21) The evidence has established beyond any question of a doubt that with respect to all three series, enslaved persons — concentration camp inmates — were subjected, without their consent, to criminal medical experimentation resulting in bodily harm and death. The evidence also established beyond any reasonable doubt that these experiments were conducted for the purpose of testing the efficacy of Farben products.

(22) With respect to the defendant HOERLEIN's participation in these crimes, the Prosecution submits that by virtue of the responsibility of the position he held in the Pharmaceutical Division of I. G. Farben and by virtue of the information he received concerning the activities and particularly the testing of Farben's products, that HOERLEIN is criminally responsible for the acts of the subordinate Farben officials who carried out the policies and programs for which he, as the highest ultimate authority, was responsible.

(23) In this connection a short summary of additional evidence which has been introduced since the submission of the Preliminary Brief concerning the responsibility, authority and information available to and actually received by the defendant HOERLEIN, is submitted to the Tribunal for consideration.

(24) The defendant HOERLEIN was the only member of the pharmaceutical division who was also a member of the top I. G. Farben policy-making board — the Central Committee (Zentral Ausschuss) (Tr. 6370). In view of the fact that his fellow Vorstand members of the pharmaceutical "Sparte", LAUTENSCHLAGER and MAIN, were at no time members of the Central Committee, it was HOERLEIN alone who represented the pharmaceutical division in the Central Committee.

(25) During Vorstand meetings it was HOERLEIN who reported on scientific developments and production for the plant at Elberfeld (where he had been Betriebsfuehrer until he appointed a successor), and for the scientific development of products of the plant at Leverkusen (Tr. 6146).

(26) HOERLEIN presided at all important meetings held within the pharmaceutical division, including meetings of the I. G. pharmaceutical sales combine, even when MANN, its chief, was present.

(27) HOERLEIN was chairman of the Pharmaceutical Main Conference as well as of the Pharmaceutical Central Conference (Tr. 6402).

(28) In addition, he was a member of the Aufsichtsrat of the Behringwerke A.G. and was responsible for all scientific research at the plants at Elberfeld and Leverkusen (Tr. 6146).

(29) At the Scientific Central Conferences HOERLEIN, who was chairman, was fully informed concerning the merits of the various products, the value or efficacy of which was being tested. At these meetings it was the "duty" of Dr. Mertens to discuss and report on the results which he received from the various places where Farben products were being tested (Tr. 6400). It was Mertens' function to send out to various testing places the pharmaceutical products developed at Elberfeld or Hoechst as soon as such products were ready for clinical testing, i.e., on human beings. Copies of Mertens' reports went to both Hoechst and Elberfeld (Tr. 6399). In addition, of course, he visited and discussed his findings with HOERLEIN directly (Tr. 6261). When the "clinical testing" showed positive results, these results were then reported to the Pharmaceutical Main Conference (Tr. 6262). HOERLEIN admitted that Hoechst and Elberfeld interchanged information about products undergoing clinical test (Tr. 6251) and that there was some connection between Elberfeld and the scientific department at Leverkusen, resulting from the fact that HOERLEIN and his associates at Elberfeld were "very much interested in the results of the clinical tests which the scientific department carried out" (Tr. 6260). However, when specifically asked about the correspondence between Elberfeld and some other Farben plants such as Hoechst and Marburg, in connection with the Buchenwald experiments, HOERLEIN admitted that he "received copies concerning the tests of drugs about to be developed," but didn't remember "anything at all" of correspondence about "the other affair" (Tr. 6289).

(30) HOERLEIN admitted also that it was possible that in addition to receiving the reports of clinical testing from the various Pharma Bureaus, he also received reports directly from the testing places which were copied and distributed (Tr. 6399).



(31) As a matter of fact, the collaboration between HOERLEIN's Elberfeld assistants and the scientists at I. G. Farben Hoechst was much closer than HOERLEIN has admitted. Professor Kikuth, one of HOERLEIN's chief assistants, testified how Elberfeld and Hoechst exchanged their experiences and tested each other's products' effectiveness for fighting typhus. He states:

"Fussgaenger (Hoechst) had found a nitro-acridin preparation against typhus. I asked for this preparation and in an experiment I compared it with Methylene Blue, and vice versa Dr. Fussgaenger compared his nitro-acridin with my Methylene Blue." (Tr. 12476)

(32) Moreover, Dr. Mertens who received the results of all experiments concerning all Farben products, sent his reports from Leverkusen to the attention of the director at Elberfeld. When Professor HOERLEIN was there, he was the first to look at the reports and, if it happened that HOERLEIN was not there, Professor Kikuth himself would call any important matter in the report to HOERLEIN's attention (Tr. 12478). On cross examination Professor Kikuth was specifically asked:

"Is it or is it not true that one of Dr. Mertens' duties was to see to it that the reports which he received on results of the tests were forwarded to the scientists for their critical evaluation?"

He answered:

"The results which Dr. Mertens received had to be sent on to us by him, of course." (Tr. 12466)

(33) The testimony of defense witness Professor Kikuth is in sharp contrast to the improbable and incredible testimony of defendant HOERLEIN who described Dr. Mertens' functions in such a way that the only logical conclusion that could be drawn was that Dr. Mertens was responsible to no one. Referring to Dr. Mertens' scientific department at Leverkusen, HOERLEIN stated that:

"MANN cannot be held responsible because he was a business man, and I cannot be held responsible because I was a chemist." (Tr. 6390)

(34) In addition to the criminal responsibility of the defendant HOERLEIN flowing from the position he held in the Farben Pharmaceutical Division and the knowledge he had of its activities, the Prosecution submits that HOERLEIN is directly chargeable with responsibility for three separate and distinct series of criminal medical experiments.

(a) HOERLEIN was a principal in, accessory to, ordered, abetted, took a consenting part in or was connected with plans or enterprises involving medical experiments upon human beings without the subject's consent in connection with the experiments conducted at Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines.

(35-6) Since the submission of the Preliminary Memorandum Brief, additional evidence has been introduced showing that HOERLEIN was informed from the very outset that it was contemplated to test certain vaccines on human beings, that Farben representatives urged the inclusion of the Farben product in the test contemplated, and that the testing was to be in the hands of the SS (P2s 1864 and 1607), and that Farben was having difficulty "in having its vaccine recognized as being effective" (Tr. 6440, 6441).

(37) It will be recalled that the minutes of the meeting of 29 December 1941, a copy of which went to HOERLEIN, indicated that two basic decisions were raised:

(a) That tests would be conducted to determine the comparative efficacy of various types of typhus vaccines;

(b) That the Lemberg Institute would be built for the production of typhus vaccines.

The Prosecution concedes that there is nothing whatever wrong, improper or illegal about constructing an institute for the production of typhus vaccines; and the fact that HOERLEIN had some connection with the building or planning of such an institute has no direct bearing on any of the issues in this case. What is interesting and relevant is the fact that HOERLEIN has emphatically denied any connection whatsoever with the construction or planning of the Institute. After stating that "it was constructed by Dr. JAHNE and Dr. LAUTENSCHLAGER" (Tr. 6431), he pointed out that his entire "share" of the work done toward the Lemberg Institute consisted merely in telling Director Zahn, "You can do that," in answer to Zahn's request as to whether he could ask Goering for a donation (Tr. 6433).

(38) The reason HOERLEIN's disclaimer of any connection with the proposed Lemberg Institute -- a completely legal affair -- is so interesting

is that in fact he was not only informed from the very outset of the plans for the Lemberg Institute but took an active part in the planning, construction, financing, and organizational set-up of Lemberg (FEs 1865, 1866 and 1867). And the reason that HOERLEIN was so careful to disassociate himself from an enterprise with which he was obviously closely connected was the coincidental fact that the meeting of 29 December 1941 was exactly the same meeting in which the decision was made to conduct the comparative experiments on typhus vaccines (later conducted in Buchenwald). HOERLEIN, who before testifying admittedly studied the three sets of minutes of that meeting which the Prosecution introduced in its Case-in-Chief, had no way of knowing whether the Prosecution could in fact prove that he had received a copy of those minutes or that he was otherwise informed about the decision made at that time. Knowing that had he admitted his close connection with the Lemberg Institute, it would have been difficult to sustain a position that he was fully familiar with half of the decision of the meeting without being at all aware of the other half.

(39) That HOERLEIN was carefully primed for any question which might connect him with the 29 December meeting is shown by the deliberate evasiveness of his answer to the question of whether he received a copy of the minutes. His testimony was as follows:

A. "Counsel, in view of the importance which you seem to attach to this question, I have noted down my reply, and I am going to repeat it to you. My reply was to the question of my counsel whether I had seen these three records, the following, verbatim:

'In view of the importance which the Prosecution seems to attach to these documents, I have looked through all records which were accessible to me without even finding the slightest hint that I had seen them before. Moreover, I can find nothing in these reports which seems to indicate an intention of inadmissible experiments.'

That was my reply.

Q. By that reply do you intend to create the impression that you had or had not received copies of any of those reports?

A. I only had the intention to tell the truth. I had no intention to create any impression whatsoever.



Q. Can you say now whether copies of any one of those three reports, or all three of them, were in fact sent to you?

A. I can only repeat what I said yesterday. Not one word more, not one word less.

Q. The statement you just read, Dr. HOERLEIN, you have analyzed the documents and you find nothing in your analysis which leads you to believe that you saw it; now apart from the document, do you recall whether you ever received one of these copies?

A. I see them now naturally; they are in the document books.

Q. I am referring, Dr. HOERLEIN, to the time when the documents were first sent out. This is the meeting of the 29th of December, 1941. Dr. Demnitz, Dr. Bieker and Dr. Zahn each wrote a separate set of minutes for that meeting. I am interested now in the answer to an important but very simple problem. Did they send copies of the minutes which they had drawn to you?

A. Shall I read the reply once more which I just read?" (Tr. 6413, 1614)

(40) HOERLEIN's "cleverness" in evasion availed him naught since the Prosecution had found at least one of the three sets of minutes showing distribution to KAHN, HOERLEIN and LAUTENSCHLAGER (Tr. 6315, 6316).

(41) In addition, HOERLEIN's connection with the other half of the decision made at the 29 December meeting, i.e., the building of Lemberg Institute was so close and so intimate, even from the outset, that any testimony that he was not fully aware of what occurred at the 29 December meeting can have no weight (PEs 1865 and 1866).

(42) Not only was HOERLEIN informed concerning the form and capital of the proposed company, its management and personnel, its production program, its factory building and equipment, the proposed organization and care during the construction period, and even the farm necessary to supply the institute, but these matters were discussed at conferences called "at Professor HOERLEIN's request in Leverkusen" (PE 1865).

(43) The inseparability of the building of the Lemberg Institute and the comparative typhus experiments to be carried out by the SS which was decided upon in the 29 December meeting is further evidenced by the fact that simultaneously with the discussion of Lemberg there is also the discussion of the follow-up on the 29 December meeting with respect to

the experiments on Farben's typhus vaccines. Thus, at the same meeting Zahn reports about a discussion with Dennitz:

"Mrugowsky is conducting experiments with vaccines produced by various means, which are being put at his disposal by Marburg, so as to establish whether there are any differences which speak in favor of one or the other production method . . . In addition, Mrugowsky is at the same time testing the Weigl vaccine and the one from the Robert Koch Institute."  
(HOERLEIN Exh. 108)

(44) The fact that the agreement reached in the 29 December meeting was carried out by Farben (PE 1609) by the prompt sending of the necessary experimental quantities of Behringwerke typhus vaccine and the fact that Dr. Ding in Buchenwald used the vaccine in connection with a series of tests involving artificial infection of concentration camp inmates (PE 1608) is too well established to warrant a discussion here. Also, it is now firmly established that on the first series of tests with the Farben product the lives of five concentration camp inmates were sacrificed. In spite of the evidence that detailed reports of these experiments were sent to Farben (PE 1631), and in spite of the detailed exchange of information within Farben with respect to clinical tests of Farben products (discussed supra), HOERLEIN not only did not object to the continuation of these experiments but he took the initiative to have one of his own Elberfeld products, Methylene Blue, tested by the same SS people in the same concentration camp -- Buchenwald.

(b) HOERLEIN was a principal in, accessory to, ordered, abetted, took a consenting part in or was connected with plans or enterprises involving medical experiments upon human beings without the subject's consent in connection with the experiments conducted at Buchenwald concentration camp to determine the efficacy of Farben's Elberfeld product, Methylene Blue.

(45-6) At the outset it should be pointed out that with respect to an Elberfeld product no "expose" could go out without the approval of defendant HOERLEIN (Tr. 12466).

(47) The discoverer of Methylene Blue when asked whether in testing it as a cure for typhus he was not in effect testing a brand new product, admitted "the pure Methylene Blue as we used it for the therapeutical tests had not been used before" (Tr. 12479, 12498). It should be noted further

that ordinarily HOERLEIN would not give instructions to issue preparations for testing but that "the case of Methylene Blue" could be described as an exception (Tr. 12483).

(48) When defense witness Professor Kikuth was asked to explain how it was that instead of following the normal procedure of sending the "expose" to Dr. Mertens and ask him to have clinical tests started, that in the case of Methylene Blue, Professor HOERLEIN himself had on his own sent the necessary "expose" to the SS Dr. Krugowsky for testing, Dr. Kikuth answered "in the case of Methylene Blue, in contrast to the routine, it actually was an exception which might be explained by the fact that typhus is a particularly dangerous disease, and that in the field of typhus there was no time to be lost" (Tr. 12480).

(49) In his testimony before the Tribunal, HOERLEIN amended what he had said "before the Indictment was served" to the effect that he did not discuss Methylene Blue with Krugowsky, by stating that "remembering the situation as it was at the time, I am inclined to think that we did discuss the problem of typhus . . . in this effort of looking back -- I am inclined to think that I drew Krugowsky's attention to Methylene Blue" (Tr. 6280).

(50) That HOERLEIN not only drew Krugowsky's attention to Methylene Blue but actually initiated and suggested that experiments be made to test its efficacy, is completely clear. Not only did HOERLEIN go out of channels and by-pass his chief assistant who had invented Methylene Blue, by personally sending the expose directly to Krugowsky to enable Krugowsky to carry out his experiments, but when there was a short delay in sending Krugowsky the necessary test quantities of Methylene Blue, HOERLEIN immediately complained about the delay (PE 1679).

(51) HOERLEIN's own explanation for his unseemly haste in getting test quantities of an untried preparation to the SS for experiments was given to the Tribunal when he stated:

"Now, when I expressed my indignation on 8 or 9 January at the fact that something I had asked to be done on 23 December had not been done yet, this can be explained by the fact that I always expected everything to be done swiftly and promptly and that a delay of more than two weeks I felt to be improper." (Tr. 6283)



(52) On 11 January 1943 Dr. Koenig of Leverkusen explained to Dr. Mertens of Leverkusen that the delay in getting the necessary quantity of Methylene Blue to Mrugowsky was not the fault of Leverkusen since the order had gone out on 4 January. It is significant that Koenig points out on the 11th of January that Mrugowsky has previously been supplied (PE 1612).

(53) On 10 January Dr. Ding in Buchenwald concentration camp was able to make the following entry in his diary:

"10 Jan. 1943. Therapeutic Experiments: Acridine and Methylene Blue:

On suggestion of the I. G. Farbenindustrie A.G., as spotted fever therapeutics were tested:

a) Preparation 3582 "Acridine" of the chemical pharmaceutical and sero-bacteriological department in Frankfurt-on-Main-Hoechst-Prof. LAUTENSCHLAGER and Dr. Weber -

(Therapeutic experiment A)

b) Methylene Blue, tested in an experiment on mice by Prof. Kikuth Eibenfeld.

(Therapeutic experiment B)" (PE 1608)

(54) The Tribunal's attention is specifically called to the fact that in the next entry of the Ding Diary, 26 January 1943 it is stated:

"Artificial infection with Weil's disease  
20 persons for therapeutic experiments with Methylene Blue and 20 persons for control" (PE 1608)

Most significant in the following entry of the same day:

"The reference series was designated to the control factor as 'negative' as the persons for control could not be infected clearly." (PE 1608)

(55) Ding's entry in the diary that he reported to the manufacturer fully substantiates the testimony of the eminent Dr. Egon who testified that he personally sent complete reports, including the results, death rates, fever curves, etc. to the organizations or persons concerned (PE 1631).

(56) In view of the fact that the acridine experiments were begun simultaneously with the experiments on Methylene Blue, it is incredible that HOEFLEIN is not fully informed as well with respect to the results of Farben's acridine as he was with respect to his own Eibenfeld preparation, Methylene Blue.

(57) One final thing should be noted and that is that there are only two persons competent to send out the completely untried Methylene Blue

for experiments on typhus. One is Professor Kikuth, the discoverer of Methylene Blue and chief assistant to HOERLEIN, and even he couldn't send the expose on the subject out without clearing with HOERLEIN; and the other person is HOERLEIN himself, who need not clear with anybody. Professor Kikuth has stated in unmistakable terms that it was not he who suggested that Methylene Blue be tested in typhus cases (Tr. 12486).

(c) HOERLEIN was a principal in, accessory to, ordered, abetted, took a consenting part in or was connected with plans or enterprises involving medical experiments upon human beings without the subject's consent in connection with the experiments conducted at Auschwitz with Farben's Acridin "3582" and B 1034.

(58-9) With reference to this series of experiments, the evidence is clearly set forth in the Preliminary Brief and particular reference is made to the Final Brief which discusses the fact that the Prosecution's original claim of artificial infection by SS Dr. Vetter ( of I. G. Farben) is now supported by contemporaneous document (PE 2262).

e. COURT III - SUPPLYING POISON GAS FOR MASS EXTERMINATIONS  
(Section B)

(60) The evidence relating to the participation by the defendants in manufacturing and supplying Cyclon-B gas for use in the Nazi program of mass extermination of "inferior peoples", has been discussed generally in Part III of the Preliminary Memorandum Brief, and Part IV of this Final Brief. The following evidence, relating specifically to the participation of the defendant HOERLEIN, should be considered together with the foregoing.

(61) The three defendants, MANF, HOERLEIN and WURSTER, together with Brueggeman and Weber-Andree, represented certain specific interests of Farben in the activities of Degesch. MANF represented the sales interests of Farben in the insecticide field, which were coordinated through a department of Bayer at Leverkusen; WURSTER coordinated the production of insecticides in Ludwigshafen with the sales activities of Degesch; and HOERLEIN was the poison gas expert of Farben on the Supervisory Board of Degesch. At this point, it may be noted that Farben had five of its Vorstand

members on the Supervisory Board of Degesch. We have seen that in many other instances Farben had only one or two Vorstand members on the boards of particular concerns which they controlled. HOERLEIN became a member of the Verwaltungsrat of Degesch in 1937 (Tr. 6236) and kept this position until 1945.

(62) We have seen elsewhere in this brief that HOERLEIN was actively engaged in experiments with, and production of, poison gasses, and worked closely with the military authorities in connection with chemical warfare agents. (See, for example, PEs 350, 656, 618, 654, 334 and 350) When the war started, Degesch was given a commission by the OKH for experiments with prussic acid stabilization, "The aim was to use prussic acid as a chemical warfare agent" (PE 2087).

(63) HOERLEIN does not deny receiving copies of business reports of Degesch. (Tr. 6236). The evidence shows that KANN, HOERLEIN and WURSTER all received copies of such reports. (See, for example, PE 1778). When questioned on direct examination as to whether he ever learned that Degesch supplied concentration camps with Cyclon-B gas, HOERLEIN stated: "No, I did not learn that. The business reports did not mention this, nor was I ever informed about this through any other channel" (Tr. 6236). The evidence shows, however, that the business reports were enough in themselves to inform a man in HOERLEIN's position that Cyclon-B gas was being sent to concentration camps. For example, the business reports continuously mentioned that Degesch was supplying the Reichsleitung SS with gas chambers. (See reports introduced by Defense, such as Degesch Exhs. 27, 57 and 58). On cross-examination, the witness Heerdt testified that when he learned that gas chambers were being sent to any concentration camp, he automatically knew that Cyclon-B gas would also be sent to that concentration camp for use in the gas chambers (Tr. 10496).

(64) HOERLEIN's work in the field of insecticides had led him into intensive experimentation and research on highly toxic substances (PE 654). No man in Germany knew better than HOERLEIN that Cyclon-B gas, useful as an insecticide, was peculiarly adapted to mass exterminations of human beings. (It will be recalled that when the High Command wanted a highly



effective chemical warfare agent they called on HOERLEIN who informed them of the toxic qualities of his insecticide, Tabun.)

f. COUNT V - CONSPIRACY

(65) HOERLEIN was also charged under Count V of the Indictment which charges a conspiracy to commit Crimes against Peace as indicated in Part V of the Prosecution's Preliminary Brief. This conspiracy to commit crimes against peace embraces the matters in Counts II and III as well as Count I inasmuch as the acts and conduct proved under Counts II and III are charged as an integral part of Crimes against Peace. All the evidence which has been introduced relating to the activities of HOERLEIN should, accordingly, be considered in connection with both his guilt under Count I and his guilt under Count V.

5. Proposed Findings of Fact with Respect to the Guilt of Heinrich HOERLEIN. The evidence has been established beyond a reasonable doubt, the guilt of the defendant Heinrich HOERLEIN on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant HOERLEIN under each of these Counts, is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of HOERLEIN, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) HOERLEIN's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1933 to 1945; as a member of the Central Committee from 1933 to 1945; as a member of the Technical Committee (TEA) from 1933 to 1945; as Chairman of the Pharmaceutical Main Conference of Farben from 1933 to 1945; as Deputy Chief Leader of Sparte II and Manager of the Elberfeld plant from 1933 to 1945.

(b) HOERLEIN's activities as Farben's first representative in the entire field of production of pharmaceuticals, sera and vaccines, and the development of the newest and deadliest poison gasses, such as Sarin and Tabun.

(c) HOERLEIN's activities carried on through the instrumentality of Ferson and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. HOERLEIN participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedoms. HOERLEIN knew this for a number of reasons:

(a) HOERLEIN knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to HOERLEIN that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in HOERLEIN's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by HOERLEIN and the timing of such activities, establishes that HOERLEIN knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by HOERLEIN, at which the aims of the Nazi leaders were expressed, and HOERLEIN's own statements on various occasions, are sufficient in and of themselves to establish that HOERLEIN had the required state of mind.

(c) HOERLEIN's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to HOERLEIN; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, HOERLEIN knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant HOERLEIN.

(a) As a matter of Law, even if the facts established that HOERLEIN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that HOERLEIN acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant HOERLEIN knowingly participated in plans to spoliage, and in spoliating, the chemical industries of occupied countries.

2. HOERLEIN bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. HOERLEIN played an especially active role in the plunder and spoliation of property in France.

3. The alleged defense of duress or coercion is not available to the defendant HOERLEIN.

(a) As a matter of Law, even if the facts established that HOERLEIN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that HOERLEIN acted under duress or coercion in carrying out any of the activities specified above.

#### Count III (Sections A and C)

1. HOERLEIN knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of



racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. HOERLEIN took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of HOERLEIN were, to HOERLEIN's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. HOERLEIN continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant HOERLEIN.

(a) As a matter of Law, even if the facts established that HOERLEIN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that HOERLEIN acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B - Mass Exterminations)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. HOERLEIN participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. HOERLEIN knew that human beings in concentration camps were being exterminated by gassing.

4. HOERLEIN either knew that the aforementioned Cyclon-B gas was

being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count III  
(Section B -- Medical Experiments)

1. HOERLEIN participated in supplying Farben pharmaceuticals and vaccines to the SS for the purpose of having them tested, knowing that the tests would be conducted by medical experiments upon concentration camp inmates without their consent.
2. HOERLEIN took the initiative in getting Farben products tested by the SS through the means of criminal medical experiments.
3. These criminal medical experiments resulted in bodily harm and death to a number of persons.

Count I

1. The foregoing activities were engaged in by the defendant HOERLEIN in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property and their personal freedom.
2. The defendant HOERLEIN, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler initiated.

1. Charges in the Indictment. The defendant von Knierich is indicted under Count One (Crimes against Peace), Count Two (Plunder and Spoliation constituting War Crimes), Count Three (Slave Labor constituting War Crimes and Crimes against Humanity), and Count Five (Conspiracy to commit Crimes against Peace).

2. General Nature of the Evidence Supporting these Charges.

Von Knierich bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, von Knierich bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant von Knierich are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant von Knierich sets forth certain selected highlights in the activities of the defendant von Knierich and shows the general nature of the broad field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. Von Knierich's Positions from 1933 to 1945. The defendant von Knierich was the Chief Counsel of Farben, or as the defendant himself



described it, the "first lawyer" of Farben (Tr. 6494). For a detailed list of the positions held by von Emler in Farben and in the financial, industrial, economic and political life of Germany, see particularly PRs 299 and 1617. Von Emler was a member of the Vorstand of Farben during the whole period from 1933 to 1945. He became a member of the Central Committee in 1938. He attended frequently the meetings of the TMA and in special cases the meetings of the Commercial Committee. Von Emler was Chairman of the Legal Committee of Farben during the whole period from 1933 to 1945. He was a member of the Legal Committee of the Reich Group Industry during this whole period and a member of a number of committees and subcommittees dealing with legal questions affecting industry, which arose during the Nazi era (these included questions in the field of International Law, such as his membership in the Committee for Questions of International Patents). Von Emler was a "business manager" of the Anmonia Werke Borsdorf; member of the Aufsichtsrat of Anorgana; and a member of the Verwaltungsrat of the Stickstoff Syndicat. He became a member of the German Labor Front in 1934 and a member of the NSDAP in 1942.

4. Certain Specific Activities of von Emler during the Period 1933 to 1945. To place the specific activities outlined below in fuller context with the progression of events in Hitler's Germany and in Farben, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual brief with the year-by-year narrative under "B - Carl Brauch", above.

a. - COUNT I - CHARGES AGAINST THE PLACE

(1) As a member of the Vorstand and the chief counsel of Farben during the whole period from 1933 to 1945, von Emler was informed of, and authorized, approved or ratified all major activities of Farben during this period. (See Part I of this Brief) He will not repeat here the evidence relating to the contributions which Farben made to the Nazi Party and Nazi Party organizations during this period; the evidence relating to the initiation and intensification of various measures in preparation for war, such as air raid precautionary measures, "war games",

mobilization-planning in general, etc.

(2) As "first attorney" and chief of the Central Department for Contracts, the defendant was informed of the main contracts which I. G. Farben executed during the period 1933 to 1945, and especially from 1935 on (Tr. 6640-1). It was the practice in Farben to furnish the defendant von Knieriem with a copy of all important secret contracts (Tr. 6643; PE 1871; PE 699). Thus the defendant knew from his specialized activities in Farben, in addition to his participation in the TMA and Vorstand meetings (Tr. 6642), of the nature and extent of Farben's expansion program to furnish the facilities for the production of essential material for the German Armed Forces. He was, as early as 1935, conversant with the set-up of the "Montan" plants, which were financed by the German Government and operated by Farben (PE 351), and of the fact that the "Montan" plants were built exclusively for war (PE 645). He knew of the standby plants (PE 185).

(3) Significant contracts of which the record shows personal participation of this defendant include: the contract of December 1933, dealing with the guarantee to Farben by the German Government of its production of synthetic gasoline (PE 92); contract for construction of aviation gasoline plant, 10 June 1936 (PE 528), just two weeks after Goering informed Schmitz of the importance of gasoline in preparation for war (PE 400; PE 401); the contracts relating to the collaboration between I. G. Farben and Orgacid in August 1935, with respect to the construction of Ammendorf plant for the production of Lost (Tr. 6634 - 6636, p. 6714; PE 351); the contracts for specialized experimental work at Oppau, Ludwigshafen, and Seelkopau (PE 368).

(4) He was instrumental in working out the technical, legal details involving Farben's collaboration with Orgacid and knew of the purpose for which Orgacid was established and the purpose for which the Ammendorf plant was constructed since he negotiated with Orgacid on the question of having Farben secure a seat on the Aufsichtsrat of Orgacid (PE 625; Tr. 6634 - 6636). The experience of the defendant von Knieriem in World War I, in the Reich War Ministry, in negotiating contracts for the construction of plants to produce war material (Tr. 6625), shows that he

knew the meaning of the extent of Farben's participation in the armament program, of the expansion of its plants' facilities under the Four Year Plan (see PE 530, report to Aufsichtsrat. Von Inierien prepared the agenda for Aufsichtsrat meetings, Exh. 1313); and the significance of the fact that from 1932 to 1941 over 2,000,000,000 RM were spent for the construction of new facilities (PE 586).

(5) Von Inierien suggested to the Vorstand in 1935 the setting up of a special liaison office in I. G. Farben to deal with the newly created problems of German rearmament (PE 334). In September 1935, the defendant von Inierien, together with defendant Brauch, conferred with General (then Colonel) Thomas of the High Command of the Wehrmacht for the purpose of having the various military agencies of the German Government set up a central agency with whom industry could deal in connection with economic military matters (PE 101; PE 1868). The defendant von Inierien stated that the purpose for the conference with General Thomas was to set up an agency in the military who could give clearance to Farben in cases where it might be necessary under its contracts to advise nationals of other countries of technical processes, and that the thought behind these conferences was to secure a sort of advanced ruling from the military as to whether or not it was legally permissible for Farben to transmit abroad technical processes which it was contractually obligated to do (Tr. 6626). The planned and the actual operations and activities of the Vermittlungsstelle of Farben, however, embraced a much more extensive field than merely securing preliminary clearances from the German military authorities on questions of transferring technical processes abroad (PE 140; cf. Preliminary Brief, Part I, pp. 15-18). The defendant von Inierien himself noted that in his discussions with General Thomas a much broader purpose in setting up this central liaison office was contemplated. It was pointed out that such cooperation between Farben and the Wehrmacht would be mutually advantageous, recalling that Farben had turned over to the German War Ministry in earlier years, technical processes which Farben had secured from American industry and which were important to the German War Ministry (Tr. 6628, PE 1868). The defendant



know of the broader activities of the Vermittlungsstelle W, as he called for special reports relating to the arrangements with the German military authorities in connection with patents (PE 165; PE 166). The defendant participated in the setting up of the counter-intelligence unit in the Vermittlungsstelle W (PE 1869), and in the appointment of Herr Horbeck, a member of the Gestapo, as its head (PE 1951).

(6) The defendant von Knieriem sent to the Reich Ministry of War, through the Vermittlungsstelle W, a report dealing with Germany's nickel supply (Tr. 6645; PE 722). As the result of Farben's initiative in this field, the Reich authorities authorized Farben in 1937 to construct a nickel plant "in consideration of the interests of the military policy" (Tr. 6646; PE 683).

(7) In 1937 the defendant von Knieriem (together with Krauch and Schmitz), participated in the negotiations for purchasing 20,000,000.00 worth of aviation gasoline from Standard Oil (Tr. 6647 - 6651; PE 731). This transaction was not related to Farben's regular business and was undertaken expressly for the German military authorities. It occurred at a time when Schmitz had already been informed by Goering in May 1936, that in connection with mobilization of the Army and Navy, the whole problem of conducting a war depended on securing an adequate supply of gasoline (Tr. 6650; PE 400; PE 401). Farben was proud of the job it did for the German Government in securing for stockpiling purposes this 20,000,000.00 worth of aviation gasoline, for it prepared a memorandum in June 1944, ready to submit to the Reich officials (PE 994) pointing to its accomplishment in that field and in other fields such as securing for stockpiling purposes the critical item of tetraethyl lead via Standard Oil (Tr. 6670-1).

(8) Also in 1937, the defendant von Knieriem personally participated in negotiations with Standard Oil and Dutch Shell whereby the American and British companies were persuaded to invest their German funds with Farben in a hydrogenation plant at Pöchlitz for the production of synthetic gasoline (Tr. 6651, PE 519). Again this was after Goering made known to Schmitz the military importance of gasoline.

(9) As part of the preparation for the conduct of war, it is important to have assets abroad to enable various activities to be conducted in enemy countries, and the desirability of protecting such assets from seizure is obvious. Camouflage measures were a part of the Reich Government policy for the preparation and waging of war (PE 1026) and Farben discussed its camouflage measures with the Reich Ministry of Economics (Tr. 2926-2927) and made available to the Reich "hard foreign currency".

(10) The defendant von Knieriem devised the legal techniques for camouflaging and concealing Farben's assets abroad in order to prevent their seizure in the event of war and make them available for the use of the Reich. It was after the Munich crisis in September 1938 (von Knieriem knew of the contributions to the German-Sudeten Free Corps a week before Munich - PE 834), that the Legal Committee recommended far-reaching steps be taken to conceal Farben assets abroad in order to prevent sequestration in the event of war (PE 1872; Tr. p. 6665). The Defense have attempted to establish that the steps taken to conceal its assets abroad had been going on for a long time, and in any event were taken in connection with matters involving taxation, or other normal commercial activities. The witness Kuepper admitted on cross-examination that it was only after the Munich crisis that these special steps for camouflage were taken and that the prospect of war was the dominant factor (Tr. 2908, 2928). The summary of the minutes of the Legal Committee which were transmitted to the interested Vorstand members, contain no reference to Gold Clause litigation or other matters but speak only of war problems (PE 1030; Tr. 6666-6668).

(11) The defendant von Knieriem was Farben's legal authority on cartels. The problems concerning the relationship between Farben and Standard Oil arising from the Jasco agreement was in his special province. The facts dealing with the misrepresentation and withholding of the Buna know-how from Standard Oil, are discussed in the Preliminary Memorandum Brief and below under "H.-Erich von Knieriem".

Von Knieriem's part in these activities include the conferences at the Hague in September 1934, with representatives of Standard Oil, where Farben transferred its patents to Jasco to safeguard them from seizure in the event of war between Germany and the U.S. (PE s. 976 through 979). At the Hague conference, von Knieriem knew that Farben would not transfer the "know-how" on Buna (PE 974; PE 995).

(12) In 1940 Farben pointed out that "in view of the possibility of war certainly breaking out between Germany and the U.S." (PE 1034), it would be necessary because of "political economic considerations" (PE 1032) to transfer its American interests in the General Aniline and Film Company. The defendant von Knieriem participated in the negotiations whereby Farben went through the formal steps of effecting a transfer of its interests in the American company to American nationals so as to "prevent seizure in the event of war" (PE 2028).

(13) The defendant von Knieriem was present at the meeting of the Commercial Committee and the Vorstand when the preparation of the "New Order" was discussed (Tr. 3672; PE 818; PE 368). The details of the New Order have already been discussed in the preliminary Brief, Part I, at pages 74 and 75. One of the devices for controlling the economy of the continent by Germany contemplated centralizing the control of patents in Germany (PE 1050; Tr. 3671). Through cartels and capital investment controls, the new production facilities of other countries were to be limited (PE 1051; Tr. 3674; PE 368). The defendant von Knieriem is the author of the plan dealing with the patent control in German hands as a means of securing German dominance of the industry of the continent (PE 1030; Tr. 3673). And when the Farben activities in connection with the acquisition of plants in France and Belgium were going on, he recommended that his patent protection plan be tried out (PE 1633). Even as late as January 1945, the defendant von Knieriem was taking part in negotiations for the turnover by Farben of its hydrogenation process to



the Japanese military, in order "to accomplish the greater tasks for the development of the New Order in the world in which Japan and Germany are faced" (PE 1055; Tr. 6644).

b. COUNT II - PLUNDER AND SPOLIATION

(14) On 2 October 1940 there was presented to the defendant von Knieriem a detailed memorandum discussing the "legal status and legal organization of the occupied territories" and the memorandum discussed "the international effects of the legal organization set up by Germany in the occupied territories, that is to say, investigations will be made as to how far the measures taken by the German military and administrative authorities in the occupied territories have any prospect of being recognized by other states as legally sufficient" (PE 1875; Tr. 6675). In connection with the discussions of the incorporated territories (referring to the incorporated Polish territories, Alsace-Lorraine, and Luxembourg), the memorandum stated that "the incorporation of those territories and all steps referring thereto, will not be recognized for some time to come by part of the non-German world, that is to say, they will not be considered as having legal effect" (PE 1875, p. 4). This memorandum was discussed in the Legal Committee of Farben (PE 1874; Tr. 6674).

(15) With the knowledge of the illegality of the annexation by the German Reich of Poland and Alsace-Lorraine the defendant von Knieriem sat in the Vorstand and approved of Farben's participation in the spoliation of Polish factories (PE 1137; Tr. p. 376). He participated in negotiations with respect to setting up of the various trustee corporations to take over and operate the Russian chemical plants (PE's. 1190, 1184, and 1185; Tr. 667). He attended the Vorstand meetings where the Francolor and Rhona-Poulenc take-overs were discussed (PE's. 1270, 345, and 1623; Tr. 668). He was present at the ZA meetings where the take-over of the Norwegian plants was discussed (PE 1623); and was present at the Vorstand

meetings when the Norwegian magnesium plant was discussed (PE 1193). As a member of the Vorstand he ratified the plans and approved the decisions relating to the foregoing.

c. COUNT III - SLAVERY AND MASS MURDER

(16) The defendant regularly attended the TEA meetings and knew of the charts displayed there which indicated the extent of the employment of foreign labor by Farben in Germany (Tr. 6678; see PE 1318). He was present at the meeting of the Aufsichtsrat of 11 July 1941, when the defendant Schmitz reported: "The works must direct their efforts to obtaining the required manpower. Through foreign workers and prisoners of war the requirements could in general be covered" (PE 1312). The defendant von Knieriem signed the minutes of that meeting and participated in the discussions. At a meeting of the Aufsichtsrat in May 1942, Schmitz again stated: "The shortage of workers, particularly skilled workers, had to be made up by working long hours, by the employment of women, foreigners, and prisoners of war" (PE 1313). Again von Knieriem prepared the minutes of the meeting.

(17) In October of 1942, he visited Auschwitz, accompanied by Ter Meer and Ambros, and admits that as a result of that inspection, he knew that concentration camp inmates were employed in Farben (Tr. 6678). Although his recollection is now "blurred", he testified that he saw nothing contrary to order, and believed that their employment in the Farben plant must have been an improvement in their condition over the concentration camp (Tr. 6679).

(18) Elsewhere in this Brief (see particularly Parts I and IV) and in the Preliminary Memorandum Brief (see particularly Parts III and VI) we analyzed the evidence which establishes that the Vorstand of Farben was responsible not only for using foreign workers, prisoners of war, and concentration camp inmates as slaves, but also in taking the initiative to obtain such slave labor. We have also seen that the foreign workers, prisoners of war and concentration camp

inmates so obtained through the initiative of the Vorstand of Farben were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered under circumstances which make it clear that the members of the Vorstand knew of such conditions. The evidence has shown that even after the Vorstand knew of these conditions, it continued to take the initiative in obtaining slaves for use in Farben plants. The defendant von Knieriem not only as a member of the Vorstand but also as its Chief Counsel (and therefore having especially good reasons for challenging the illegality of this whole traffic in human slavery) is criminally responsible for these activities.

d. COUNT V - CONSPIRACY

(19) The comments made in the individual brief on the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant von Knieriem.

5. Defenses Interposed by von Knieriem. The tactic of von Knieriem's defense has been to appear merely as the "first lawyer" of Farben and hence to draw away from involvement in the path cut out by his technical and commercial colleagues through the twelve long years of Hitler's Third Reich. He has argued that each of the main plants and combines had their "independent" legal staffs. But no other Vorstand member had principally legal duties to perform and as the "legal" right hand of the Vorstand, von Knieriem in 1938 was made a member of the Central Committee along with the Sparte heads, the first commercial leader, and the chairman of the Vorstand. There is not one indication that he even cautioned his colleagues against criminal involvements, even, for example, when he knew from a study of one of Farben lawyers (Dr. Henze) that the policy in the "incorporated" occupied countries "would not be considered as having legal effect" by the civilized world under the "Law of Nations" (PE 1875, an internal Farben study concerning occupation law which bears von Knieriem's signature just above the date on the first page). As a Vorstand member, whether Farben's "first lawyer" or not, von Knieriem cannot avoid the consequences



for the management of the concern in which he was legally, an "equal".

6. Proposed Findings of Fact with Respect to the Guilt of August von Knieriem.

The evidence has established beyond a reasonable doubt the guilt of the defendant August von Knieriem on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant von Knieriem under each of these Counts is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of von Knieriem during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) von Knieriem's activities as one of the leading officials of Farben, including his activities as the Chief Counsel of Farben from 1933 to 1945; as member of the Vorstand from 1933 to 1945; as member of the Central Committee from 1933 on; as a frequent participant in meetings of the Technical and Commercial committees; and as Chairman of the Legal Committee of Farben from 1933 to 1945.

(b) von Knieriem's activities in other positions, including his activities as Manager of the Ammonia Werke Hoesburg and as member of the Legal Committee of the Reich Group Industry and other committees.

(c) von Knieriem's activities carried on through the instrumentality of Farben and through his other positions, included (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding

production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi Party Program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. von Knieriem participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedoms. Von Knieriem knew this for a number of reasons:

(a) von Knieriem knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to von Knieriem that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in von Knieriem's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by von Knieriem and the timing of such activities, establishes that von Knieriem knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by von Knieriem, at which the aims of the Nazi leaders were expressed, and von Knieriem's own statements on various occasions, are sufficient in and of themselves to establish that von Knieriem had the required state of mind.

(e) Von Knieriem's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to von Knieriem; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March

1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, von Knieriem knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant von Knieriem.

(a) As a matter of Law, even if the facts established that von Knieriem acted under duress or coercion, this would be no defense.

(b) The facts do not establish that von Knieriem acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant von Knieriem knowingly participated in plans to spoliates, and in spoliating, the chemical industries of occupied countries.

2. Von Knieriem bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. Von Knieriem participated in meetings approving plunder and spoliation in various countries, including France, Poland, Norway, and the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant von Knieriem.

(a) As a matter of Law, even if the facts established that von Knieriem acted under duress or coercion, this would be no defense.

(b) The facts do not establish that von Knieriem acted under duress or coercion in carrying out any of the activities specified above.

#### Count III (Sections A and C)

1. Von Knieriem knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.



2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. Von Knieriem took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of von Knieriem were, to von Knieriem's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. Von Knieriem continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant von Knieriem.

(a) As a matter of Law, even if the facts established that von Knieriem acted under duress or coercion, this would be no defense.

(b) The facts do not establish that von Knieriem acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. Von Knieriem participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. Von Knieriem knew that human beings in concentration camps were being exterminated by gassing.

4. Von Knierrien either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

1. The foregoing activities were engaged in by the defendant von Knierrien in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

2. The defendant von Knierrien, together with defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.

1. Charges in the Indictment: The defendant ter MEER is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoils, constituting War Crimes), Count III (Slave Labor, constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to commit Crimes against Peace). The defendant took the stand in his own behalf (Tr. 6718 et seq., 7211 et seq., 12999 et seq., 13142 et seq.).

2. General nature of the evidence supporting these charges.

As the first technical leader of Farben, ter MEER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, ter MEER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant ter MEER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including a Preliminary Memorandum Brief which is made part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant ter MEER sets forth certain highlights in the activities of the defendant ter MEER and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.





3. Ter MEER's Positions from 1933 to 1945. During this period of 12 years, ter MEER was a dominant figure in Farben and played a leading role in shaping and formulating its policies. The positions which the defendant ter MEER held in the financial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in prosecution exhibit 311 (affirmed by ter MEER on direct examination, Tr. 6721). The following positions held by ter MEER during these years are of special significance:

- (a) Ter MEER was a full member of the Vorstand since 1935.
- (b) Ter MEER was a member of the Central Committee of Farben from 1932 to 1945.
- (c) Ter MEER was Chairman of the TEA from 1933 to 1945.
- (e) Ter MEER was Chief of Sparte II from 1929 to 1945.
- (f) Ter MEER was a member of the Advisory Council (Beirat) of the Economic Group Chemical Industry from 1938 until 1945. In 1942, ter MEER became Deputy Chairman of the Economic Group Chemical Industry.
- (g) Ter MEER was a member of the Board of Directors of a number of other concerns, including General Aniline and Film Corporation in the United States.
- (h) Ter MEER was a member of the German Labor Front from 1934 to 1945; a member of the NSDAP from 1937 to 1945; and became Military Economic Leader in 1942.
- (i) Commissioner (Beauftragter) for the Italian Chemical Industry from September 1943 to April 1945 under the German Plenipotentiary for Armament and War Production in Italy.

4. Certain Specific Activities of ter MEER During the Period 1933 to 1945.

Since ter MEER is the undisputed "first technical leader" of Farben, and since he was chief of the Sparte which produced the most variegated types of products, it may be helpful to the Court in weighing the value of the evidence outlined below to reconsider from time to time the year-by-year outline of evidence under the individual

brief "B - CARL KRAUCH .... 4. Certain Specific activities of Krauch During the period 1933 to 1945", pp 5 thru 27, supra. And since SCHMITZ and Von SCHNITZLER, in different ways, were the first commercial leaders of Farben, it may also be appropriate to refer from time to time to consider the equivalent section in Part VI - C, the brief on SCHMITZ as well as "a. Count I - Evidence other than Von Schnitzler's admissions" in Part VI - D, supra. Moreover it is particularly difficult to distinguish the principal activities of tor MEER from those of the Vorstand members of Sparte II, particularly on the technical side, including AMBROS, BUERGIN, KUEHNE, and WURSTER. The Tribunal is also referred particularly to appropriate sections of Part II of this final brief, "Certain Activities in Preparation for Aggression", where the significance of Sparte II is particularly clear in "A-INTRODUCTION" (pp 1 - 29), "C - SYNTHETIC RUBBER" (pp 34 - 38), "D- LIGHT METALS" (pp 38 - 9), and "F - CHEMICAL WARFARE AGENTS" (pp 59 - 62). Through the Technical Committee the "Struss Office" (office of the Technical Committee), and the various sub-committees of the Technical Committee, the gigantic technical operations of Farben were indeed well coordinated and cross-referenced in the interest of economy and efficient business management. Hence, the next few pages of this brief on tor MEER's activities are merely illustrative.

a. COUNT I - CRIMES AGAINST PEACE

The Years 1933 and 1934

(1) Already in 1933 tor MEER was a leading figure in Farben. He was a member of the Vorstand and Central Committee, chairman of the TEA, and Chief of Sparte II. In the meetings with representatives of the DuPont Company in July 1933, Bosch had indicated that upon his imminent retirement the three Sparten leaders, KRAUCH, tor MEER and GAJEWSKI, would become the leading individual figures in Farben (PE 57). Tor MEER took part in these discussions in which the Farben leaders took the view that German industry must support the Nazi government to

VI

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prevent chaos. The situation of the Jews was discussed. Farben's increased production of synthetic gasoline was also discussed.

(2) In the year 1933 discussions between Farben and the Nazi authorities with respect to buna began (PE 95). Cooperation between Farben and the Nazi government in mobilization planning was initiated with ter MEER participating (PE 105). Air raid measures were inaugurated with ter MEER's knowledge and approval (PEs 171, 173, and 174). Other war preparation measures such as production of smoke-screen materials were discussed by ter MEER and others (PE 136). Beginning in August 1933, consultation and discussions between Farben, the Reich Ministry of Economics and Army Ordnance were conducted concerning the production of synthetic rubber. It was indicated that it was impossible to manufacture synthetic rubber at a price approximate to that of natural rubber but that Farben was ready to proceed provided they obtained the support of the government. A plant for testing 1000 to 2000 tires was to be erected by Army Ordnance and it was agreed that should these tires prove satisfactory "the manufacture of tires for the government would follow" (PE 545). In 1933 a new large magnesium plant was planned at the request of the Luftwaffe (PE 744).

(3) Discussions concerning buna continued with the government in 1934. In 1934 Keppler, Hitler's economic advisor, negotiated with ter MEER and ALBROS on the production of synthetic rubber (PEs 59 and 95). In September 1934, it was decided at a meeting of the TEXO that air raid precautionary measures would have to be taken up with the Central offices of the Reich in Berlin (PE 178). At a meeting of the Technical Commission at Frankfurt in November 1934, the value of the training courses of DINZA (German Institute for National Socialist Training and Research) was discussed. It was pointed out that the value of these courses lies less in the technical field than in the field of ideology. Participation by Farben employees was recommended. Ter MEER among others received copies of the minutes (PE 89).

(4) Beginning in 1933 and extending for a period of 12 years Farben made contributions through the Office of the Central Committee amounting

to 40 million Reichsmarks to the Nazi Party and Nazi Party organizations (PEs 77, 78, 79, and 80). Ter MEER was a member of the Central Committee during this entire period of time.

#### The Years 1935 and 1936

(5) "Since 1934 conferences and discussions with various military offices and authorities in Berlin became more and more numerous and urgent" (PE 94, reference to letter from ter MEER to KRAUCH). In September 1935 the Central Committee decided to create the V/W in Berlin to provide a more systematic cooperation within Farben and for the development of military economy and to assure central treatment in questions of "military economy, military policy, and military technique" (PE 101). Both KRAUCH and ter MEER sent circular letters to the principal agencies of Farben announcing the creation and purpose of V/W (PEs 101 and 139). Ter MEER's letter went to the four main plant combines and the leaders of the Sales Combines. Bruening was designated by ter MEER as the representative of Sparte II on the V/W staff in Berlin. (For more detailed information concerning the work of the V/W see the Preliminary Memorandum Brief and PEs 141 and 142). The letter from KRAUCH announcing this decision refers to the fact that this liaison agency "in agreement with the Sparte leaders" will contact the individual works leaders in the near future.

(6) In this same month -- September 1935 -- ter MEER was discussing with Army Ordnance the erection of a plant to produce diglycol, which plant would be erected by the State and managed by Farben. Ter MEER emphasized that the State should not be given any power to become a competitor with Farben and in the conference with Army Ordnance Farben contended that the State should bind itself not to use the plant for any other purpose. There were also discussions concerning Omega production and the production of chloric acetic acid. It was also indicated that ter MEER would take part in discussions with Army Ordnance with regard to stabilizers (PE 109). In 1935 Farben on its own initiative conducted experiments for the manufacture of hexogene. The OKH was

informed immediately and the experiments were conducted in agreement with the OKH (PE 110). In June 1935 Farben entered into an agreement with the Reich Air Ministry which provided among other things that Farben must insure secrecy and must see to it that neither the manufacturing processes nor the formulas would come to the knowledge of third parties (PE 167). Discussions concerning synthetic oil began at Ludwigshafen in January 1935 at which time the formation of Erabag was discussed with ter MEER present (PE 518). In February 1935 Bitterfeld sent a letter to ter MEER enclosing a memorandum of a conference with the Reich Air Ministry in which Farben attempted to keep another firm out of the magnesium production. Farben was looking toward exclusive magnesium production for the Air Ministry (PE 578).

(7) In January 1935 a series of conferences with Army Ordnance began, relating to the manufacture of synthetic rubber. In the conference in January 1935, it was stated that the Army Ordnance desired the speeding up of work on tires so as to get an opinion on the utility of synthetic rubber and thus be able to decide whether natural rubber had to be stockpiled. It was stated that the production of synthetic rubber is no longer a question of foreign exchange and has become a question of military policy in which "the requirements of the Wehrmacht are to be decisive". In conference in February 1935 it was stated that the Wehrmacht claimed the absolute leadership in the synthetic rubber question. It was stated that the wishes of Keppler, Hitler's economic advisor and those of the Wehrmacht, could be complied with in the same factory. In a conference with Keppler, Fleiger and ter MEER in September 1935, it was stated that Keppler considered the immediate question of a large installation necessary and that through fast progress in motorizing the Army it would be necessary to deal with the problem of synthetic rubber most emphatically. Keppler undertook to negotiate with the military authorities and to obtain a guarantee for the disposal of synthetic rubber by Farben over a period of several years at a fixed price. The erection of a factory by Farben with the capacity of 200



to 250 tons of rubber per month, with plans for expansion to 1000 tons per month, were discussed. At a conference in October 1935 with Army Ordnance, it was stated that the peace time demand for rubber was about 50 tons per month. The buna plant with a capacity of 200 tons was decided upon. Finally, in a letter from Keppler to Struss in November 1935, it was stated that Hitler was greatly interested in speeding up the construction of a buna factory as much as possible and that work should start as soon as possible. It was stated in this letter that this was also in accordance with the suggestion of ter MEER (PE 546). It was in June 1935 in a conference between Farben, Army Ordnance and Air Ministry officials that Farben indicated it would not comply with its exchange of experience contracts with Standard Oil in the U.S. so far as developments being carried out for the Reich Air Ministry were concerned (PE 523). Shortly thereafter an order was issued by the government prohibiting the exchange of experience with foreign firms concerning the processes of synthetic rubber (Tr. 7061-7062). It was early in 1935 that the Reich secret defense law was passed. About the same time, March 1935, Goering publicly announced that Germany was building a military air force. It should also be recalled that compulsory military service was introduced in May 1935 and that in May Hitler publicly denounced the disarmament clauses of the Versailles Treaty.

(8) In 1935 practically the entire production of magnesium was stored in bomb casings marked "textile shells". In addition to this stockpiling, magnesium was purchased from the Dow Chemical Corporation. In 1935 a stabilizing plant at Uerdingen was expanded (PE 744).

(9) Negotiations for the construction of the first Buna factory at Schkopau began in January 1936. In June 1936, there was a conference under the Chairmanship of KRAUCH with officials of the Reich War Ministry, concerning the extension of the Schkopau Buna Factory which was under construction to a capacity of 1000 tons per month. About this same time, Goering sent a letter to Farben on the expansion of synthetic rubber production at Schkopau, requesting an increase in capacity to 1000 tons as soon as possible, referring to a conference of ter MEER with Goering's staff. In July 1936, a draft of a contract for the pro-

duction of 1000 tons per month was drawn up. By September 1936, the extension of the capacity to 2000 tons per month was discussed between Keppler and ter MEER. By December 1936, discussions had begun for a second Buna factory of 1000 tons per month (PE 95 and 549).

(10) In November 1936, a conference was held, attended by ter MEER, concerning the request of Keppler for an expert for Farben. It was pointed out that the important thing was not to have a man selected who "would work against I.G. for personal reasons" (PE 408).

(11) In a meeting of the Enlarged Farben Committee on 22 December 1936, attended by ter MEER and others, von SCHNITZLER made a highly confidential report about the statements made by Hitler and Goering on 17 December 1936 in Berlin, concerning the tasks of the Four Year Plan (PE 423). This was the meeting in which Goering outlined the purpose of the Four Year Plan, stating in part, "we are already on the threshold of mobilization and we are already at war, all that is lacking is the actual shooting" (PE 421). From October 1936 on, credits submitted to the TEA were divided into those connected with the Four Year Plan and those not required by the Four Year Plan. This custom was followed until the beginning of the war (PE 770).

(12) In December 1936, AMERON sent a letter to ter MEER concerning poison gas. It was stated that the job of drafting a manufacturing plant for the production of "L" (mustard gas) and its preliminary products had been undertaken; that "in the long run, preparedness cannot be created by storing enormous amounts of L, but rather by having "A" Plants (war plants) which are ready to start operating"; and that "our technical staff which built Armendorf and which is just carrying out the Wolfen Project is being released for this purpose" (PE 1892).

#### The Year 1937

(13) In January 1937, discussions ensued concerning the increase of buna output to 3000 tons per month by January 1938 -- 2000 tons in Schkopau and 1000 tons in Fuerstenberg (PEs 95 and 547). In this same month, it was proposed at a meeting of the Technical Directors of

Farben that projects of the Four Year Plan be written off in ten months (PE 430). In this same month, January 1937, Brauning, ter MEER's representative of Sparte II in the V/W, sent a letter to Leverkuehn, referring to the "tactical enterprise" and requested a list showing among other things "plants which must be on a full basis in the 'A field'" and plants which would only operate on a limited scale (PE 186). In March 1937, Brauning sent a letter (copy to ter MEER) to all Farben works combines and other agencies, with respect to secrecy regulations involving work being done for the Wehrmacht (PE 148). At a Working Committee meeting of the Vorstand (ter MEER present) in June 1937, SCHMITZ reported that the Central Committee had approved certain contributions to the Hitler Fund (PE 78). Beginning in 1937, mobilization questions were discussed in detail with ter MEER participating (PE 357 and 366). In January 1937, KUEHNLE sent a letter to ter MEER stating that KRAUCH was irresponsibly pushing the production of synthetic rubber (PE 552). In June 1937, ter MEER sent a letter to Goering, pledging Farben's support for the establishment of Buna plants within the Four Year Plan (PE 557). At the same time, ter MEER sent another letter to Goering concerning the expense of experimental and developmental work carried on in the Buna field, and the subsidies to be received by Farben from the Reich in connection therewith (PE 558). Synthetic rubber production at Schkopau was further expended pursuant to a contract with the Reich in September 1937 (PE 550). In November 1937, the conference on mobilization planning was held in Frankfurt. Reference was made to "suggestions reported by ter MEER on the Executive Committee on 23 November 1937" as a starting point for the discussions of mobilization plans being resumed in Berlin. It was also stated that "the suggestion of ter MEER to transfer the Industry somewhere else was to be tried out meanwhile" (PE 198). Ter MEER furnished another specialist to the KRAUCH office in November 1937 (PE 410).

(14) Experiments in the field of poison gas which began as early as 1934, were intensified in 1937 (PEs 630, 632, and 638). In March 1937



Farben and Goldschmidt exchanged a series of letters concerning Orgacid, in which the defendant ter MEER was involved along with AMEROS, WELCHER, and von KNIERIM. In a letter from Farben concerning Farben's position in Orgacid in March 1937, it was indicated that Farben would stipulate a few conditions before the Ammerdorf Plant could begin to operate ahead of schedule. It was stated that Farben had "constructed the entire plant" and had put Farben processes and experiences at its disposal (PE 624). In April 1937, ter MEER and AMEROS sent a letter to KRAUCH's office concerning stand-by plants for the production of Glycol, Triethylglycol and Acetic Acid. It was indicated that the plant had been designed for the "A Fall", and that "operation of the plant in peace time is not envisaged" (PE 598). In May 1937, a conference was held concerning the erection of the poison gas plants abroad, in which Farben considered the construction of poison gas plants in Italy and Japan through fictitious nominees (PE 627). A letter of the V/W signed by Gorr, ter MEER's representative, indicated that Farben should change its point of view with respect to erecting plants abroad for the production of chemical warfare agents. Loss of economic profit and the change in public opinion with respect to military questions were mentioned. It was indicated that Farben might cooperate in a similar manner as it did at home, where Farben "more or less created the plants for the preliminary products" while the final phases in production could be worked out through an agreement analogous to that with Orgacid (PE 628).

#### The Year 1938

(15) From the beginning of 1938 mobilization questions were the regular order of business in not only the meetings of the Technical Committee of Farben but also in the meetings of the Commercial Committee (PEs 248, 249 and 250). The mobilization tasks included contracts for items such as sera and poison gas decontamination substances (PE 254). In one typical dyestuffs meeting attended by ter MEER in March 1938, there were discussions of mobilization questions and also

questions of "political economy" (PE 376). In March 1938 Chamberlain in the U.S. sent a letter to ter MEER stating that negotiations carried on for Farben with Dow and Goodyear were conducted in such a manner as to permit continued observation of Dow's and Goodyear's experiments (PE 880). At a Technical Directors meeting at Ludwigshafen in April 1938, there was a discussion of extensive air raid protection measures; the training of two thousand employees at air defense schools; and it was reported that 45% of the required air raid shelters had been completed (PE 180). The secret memorandum to ABEROS from Army Ordnance in July 1938 dealt with the setting up of "mobilization stand-by plants" for various products including ethylene, ethylene oxide and diglycol. The financing was to be taken over by the High Command. Ter MEER received a copy of this letter (PE 216). The Chemische Werke Huels, for the production of synthetic rubber, was formed in May 1938 and the contract with the Reich for the production of synthetic rubber and ethylene was concluded, in November 1938 (PE 347, 348, and 349). Mustard gas experiments for the OKH were carried out by Farben in 1938 (PE 350). In September 1938 the minutes of the Technical Directors at Ludwigshafen (copy to ter MEER) indicate that general problems of air raid protection were discussed including a report that 50% of the air raid shelters were completed and that blackout preparations were nearly completed (PE 181). In October 1938 the secret file note by Farben (copy forwarded to ter MEER), discussed the cooperation between Auer and Farben in the field of chemical warfare agents (PE 629).

(16) In a letter from Farben in May 1938 (signed by ABEROS) to the OKH concerning the construction of plants at Huels, reference is made to the "A Fall", and it is indicated that the various sections of the plants which are the responsibility of Farben, including diglycol and oxol were being planned. Construction plants for mustard gas and an extrication plant are also mentioned. Reference is made to a discussion with ter MEER (PE 597).

(17) The year 1938 was the beginning of German aggression against her neighbors. Not only did the defendants know that the Nazi government

was determined to use the military machine which they were building up to take from the peoples of other countries their land, their property and their personal freedoms, but these defendants also know that the first acts of aggression would be aimed at Austria and Czechoslovakia. The discussion of the commercial leaders on 11 March 1938 with respect to the invasion of Austria and the possible "short thrust" into Czechoslovakia has been referred to in the individual briefs on KRAUZE (Part VI, p. 17) and SCHMITZ (Part VI, p. 60). Ter MEER has submitted an exhibit (ter MEER Exh. 9) purporting to give his view of Germany's conduct concerning Austria. He states:

"I can say that I was at the time not opposed to the military occupation of Austria by German troops, even though I recognized that a forceful military solution was made by German troops marching into another sovereign nation ... since it did not come to war, not a single shot was fired, and since we heard the reports about the enthusiastic reception of our troops by the Austrians, I did not feel apprehensive about future peace because of this military occupation".

On 22 September 1938 the Central Committee of Farben (with ter MEER's approval and knowledge) placed 100 thousand Reichsmarks at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps, which latter organization had been formed to create disturbances on the Czech border (PE 834). On 23 September 1938 KUEHNE sent a letter to ter MEER and von SCHNITZLER suggesting commissars for the Aussig-Falkenau plants in Czechoslovakia, namely WUERSTER and KUEHLER (PE 1044). On 29 September 1938 von SCHNITZLER wrote to ter MEER, KUEHNE, ILGNER and WUERSTER stating that the negotiations with the German authorities had been successful and that "as soon as the German Sudetenland comes under German jurisdiction all the works situated in the zone and belonging to the Aussig union" will be managed by trustees (PE 1045). Further confirmation of the fact that Farben had been planning for some time prior to the invasion of Czechoslovakia to take over the chemical plants in the Sudetenland is found in the minutes of the meeting between Farben Representatives and Heyden on 13 October 1938 attended by the defendants ter MEER, von SCHNITZLER, KUEHNE, HAEFLIGER and ILGNER. In



an introduction von SCHNITZLER stated at this meeting "that I.G. had already concerned itself for several months with the problem of what was to happen when Sudeten Germany would come to Germany and with it the factories Aussig, Falkenau, and perhaps Hruschau" (PE 1108). On 11 October 1938 - 10 days after Munich - ter MEER sent a letter to State Secretary Brinkmann concerning the location of the third buna works. In this letter ter MEER referred to the fact that a site in upper Silesia "could not be considered until now because this area was considered as a troop deployment area against Czechoslovakia". Ter MEER then suggested another location, the northern part of the Sudetenland, citing the future attitude of Germany towards Czechoslovakia, the location of productive lignite mines; a great pool of good labor; the population's political point of view; and the extensive unemployment in that area. Ter MEER also requested Brinkmann "not to allow the building of the buna factory to be completely or preponderantly influenced by military interests now that the immediate danger of war has been removed" (PE 563).

#### The Year 1939

(18) Ter MEER has stated that the invasion of Bohemia and Moravia on 15 March 1939 "shocked me, especially since the story brought out in the German newspapers concerning the visit of the Czechoslovakian president Hacha with Hitler did not look altogether natural to me". Ter MEER states that "I felt that the NSDAP had now started Germany on a very dangerous road. I felt that this was a breach of international agreement, and an aggressive act against a country in whose affairs we had no right to interfere". Ter MEER adds "I considered at that time the foreign policy of the Nazi from this time on to be gambling and a clear course of criminal speculation" (ter MEER Exh. 9). On the day that Germany occupied Bohemia and Moravia there was a secret conference of the mobilization managers of the Farben plants at which there was discussed common mobilization problems relating to German industry in general and the mobilization of Farben plants in particular, air raid

protectionary measures; transportation requirement, the assurance of  
 manpower; secrecy actions; preliminary work for turn over from peace  
 time to war production, including mobilization orders, changes in shifts,  
 transportation, employment of women in the case of mobilization (PE 557).  
 One day after this invasion - 16 March 1939 - the contract with the  
 Reich concerning the construction of the buna plant at Huelo was entered  
 into (PE 566). In April 1939, the Dresdner Bank gave a credit of 15  
 million Reichmarks for the construction of the Huelo Buna Plant (PE 563).  
 In July 1939, a report was made by ter MEER's representative on the V/W  
 to the Reich Ministry of Economics giving a survey of the production  
 at Farben's Ludwigshafen and Oppau plants which were essential to the  
 military economy (PE 232). A letter from V/W of 12 July 1939 to Farben  
 plants with a copy to the T&A dealt with supplying the armament industry  
 with fuel in war time. The letter concluded that due to the urgency of  
 the matter it should be answered no later than 30 July 1939 (PE 235).  
 A Secret letter from V/W to von KHEERZ of 8 June 1939 (with a copy to  
 ter MEER, KRAUCH and others), enclosed a report of the V/W on develop-  
 ments and research work of Farben dealing with wehrmacht orders or in  
 conjunction with the Wehrmacht. The report refers to the increasingly  
 large proportion of development and experimental work in Farben plants  
 being carried on at the order of the Wehrmacht or in conjunction with  
 the Wehrmacht. It also refers to the accomplishment of joint develop-  
 ment work of the Wehrmacht and Farben; and discussions of State-owned  
 production plants or "shadow" factories constructed by Farben or which  
 Farben helped to construct. With respect to the shadow factories the  
 report refers to plants having a "purely reserve character" in which  
 production would start "only in case of emergency" (PE 166). In  
 August 1939 the Vorstand approved a contribution of 50 thousand Reichs-  
 marks for the mobilization of the National Socialist Air Corps (PE 1047).

(19) In 1938 and 1939 both ter MEER and von SCHNITZLER were  
 members of the Advisory Council (Beirat) of the Economic Group Chemical  
 Industry. The role of Ungewitter, business manager of this organization  
 as well as chief of the Supervisory Office Chemistry, in mobilization

has been discussed hereinbefore. Under Part VI, "D - GEORG VON SCHNITZLER .... a. Count I - Evidence other than von SCHNITZLER's admissions", par. (20), supra, we have noted that Ungewitter frequently made the remark to leaders of the Economic Group Chemical Industry that Poland would be invaded in the fall of 1939. This was in the summer of 1939 when "the main topic of conversation of the responsible persons of the Economic Group Chemistry used to be ... the tension in the international situation" (PE 500, affidavit of Ehrmann). Hans Wagner, one of the representatives of Sparte II on the V/W, in discussing Farben's mobilization activities, states: "owing to these preparations I was in no doubt by the middle of 1939 that Germany would wage another aggressive war" (PE 347). It would be strange to the extreme indeed if a prokurist of ter MEER's Sparte II, grasped the meaning of Germany's preparations for aggression and persons of sufficient "know-how" and stature to be members of the Advisory Council of Ungewitter's organization did not.

Wagner states that he learned about troop movements to the East and to the West before the outbreak of war (PE 347). We have already mentioned that ter MEER had to take account of troop concentrations against Czechoslovakia in planning plant locations, etc. (PE 563, see par. (17), supra). Wagner notes that Farben's V/W representatives were allowed to read foreign newspapers supplied to the counter-intelligence branch of Farben's V/W by the Gestapo and the SS. Of course, ter MEER and many other Farben leaders had access to foreign newspapers through the research departments of Berlin NW-7 and by their frequent trips abroad. Concerning the common knowledge of Hitler's intent to use force, see the affidavit and testimony of Paul Otto Schmidt (PE 10; Tr. 1537).

#### Buna development as a weapon of military strategy

(20) Farben production of buna under the leadership of ter MEER and AMEROS kept step with the military program (PEs 95, 545 thru 552, 557, and 1571). A memorandum to ter MEER from AMEROS in July 1935 stated in reference to the buna factories that the "mobilization plan



provides for 100 thousand tons production for 1940. The memorandum also contains other statements tying buna in with the mobilization planning of the Nazi government (PE 1895). In a speech by the defendant ter MEER delivered before Gauleiter Springer on buna in September 1941, ter MEER stated the war into which Germany had to enter in 1939 started a bit too early as far as "supplying Germany's rubber requirements from home production was concerned ... production today nearly covers present requirements" (PE 1896; see also PE 15).

(21) Not only was Farben's production of synthetic rubber geared with the mobilization planning of the government, particularly during the period beginning in 1935 and increasing rapidly during 1936 and thereafter; but Farben, under the leadership of ter MEER attempted to retard the production of synthetic rubber in foreign countries, particularly the U.S. during this period. The manner in which Farben used its international cartel agreements with foreign companies, particularly with the U.S. companies, as a weapon to weaken the military potential of foreign countries is summarized in the Preliminary Memorandum Brief of the prosecution (Part I, pp 47 thru 53). The defendant ter MEER assumed the leadership in the steps which Farben took to retard the production of synthetic rubber in the U.S., which steps were taken in consultation with the military authorities and in line with policies of the Nazi government (PEs 942 thru 948). It is clear from these exhibits that during a period beginning sometime in 1935 Farben under the leadership of ter MEER attempted to prevent American companies from taking the initiative in the field of synthetic rubber (see particularly PE 960. Early in 1938 Farben began to realize that they could not "sten things in the U.S. much longer without taking the risk of being faced all of a sudden with an unpleasant situation" (PE 960). At this point Farben realized, and particularly the defendant ter MEER realized, that further efforts by Farben to prevent the production of synthetic rubber in the U.S. would merely mean that American companies would go ahead on their own with the result that Farben would have no control over the situation and would not be able to "reap the full value of our

work and our rights". Although the defendant ter MEER both on direct examination and on cross examination attempted to confuse and evade the main issue by pointing to negotiations of Farben with Standard Oil particularly during the period prior to 1935, nothing that he testified to and none of the documents which have been introduced on his behalf in any way rebut or contradict the overwhelming nature of the documents introduced by the prosecution. Furthermore a reading of the defendant ter MEER's testimony on cross examination on this particular matter (Tr. 7280 to 7294) reveals an effort to mislead this Tribunal as to the facts which is as clear as was the defendant ter MEER's efforts to mislead and deceive the American concerns with which he was dealing. As will be seen from <sup>the defendant</sup> the testimony/ter MEER during the whole period in which he was telling Standard Oil that he could not deliver the know-how on synthetic rubber to Standard because the government was preventing Farben from doing so, never advised the government (according to his testimony) that Farben was obligated to deliver the know-how to Standard Oil. This is only one of several contradictions and patent absurdities in the defendant ter MEER's testimony on this subject. The real facts of the matter are, as clearly appears from the evidence, that the defendant ter MEER in cooperation with the military and other Nazi authorities did what he could on behalf of Farben and in the interests of the Nazi government to prevent the production of synthetic rubber in the United States. The defendant ter MEER's testimony that he did not believe Germany would start a war because of the potential military power of the U.S. (which he believed would undoubtedly eventually come into the war) is most revealing in showing why the retardation of the production of synthetic rubber was so clearly related with the aggressive war program of the Nazi government (Tr. 7125).

(23) Farben development and production of buna during the pre-war years enabled Farben to state to the Reich Ministry of Economics in June 1942 that Farben should have the exclusive rights over the utilization of Soviet manufacturing methods for synthetic rubber because

Farben had developed buna in such good time that "the amount of rubber requested for the war by the German army and the German economy can be met". The letter further pointed out that "these methods can be made workable for the Reich through the intermediary of only those experts which I.G. Farben has put at the disposal of the Reich for that purpose" (PE 15). The location and production program (including a variety of products vital for war) of the buna factories which were constructed during this period were chosen from the outset with a view to decentralizing production and the safe-guarding of such plants in the event of war. These considerations were particularly important in the founding of Schkopau and Huls, as well as other plants such as Landsberg and Moesbierhaus (PE 678). The tremendous increase in new plants constructed and operated by Farben in preparation for war as revealed in the minutes of a Vorstand meeting stating that Farben's new construction costs from 1932 to 1941 had amounted to two billion Reichsmarks (PE 686).

Although prior to

Poison Gas

(23) Although prior to the war Farben was reluctant to build poison gas plants in its own name and insisted upon using fictitious or dummy corporations with the outbreak of war, Farben intensified its development and production of poison gas without insisting upon the use of blinds (PEs 296, and 350).

(24) In an affidavit, the defendant ter MEER incorporated certain statements made by himself and other defendants in 1945 and 1946, which discuss the organizations and functions of Farben, and shed some light on the activities of Farben during the period beginning in 1933 (PE 334). A joint statement by those members of the Vorstand of Farben who were in Krensberg Prison, relates among other things to the functions of the Central Committee and the Technical Committee (TEA) of Farben. The TEA of which ter MEER was Chairman was the highest Technical Committee of Farben. The members of the TEA included all the technical members of the Vorstand, the chiefs of some of the bigger works, and the leading



engineers of the three Sparten. SCHMITZ and von KRIEGER regularly took part in the meetings. Struss was Chief of the TEA Bureau. Various sub-committees fell under the TEA, including the TEKO chairmanned by JAEHNE. All resolutions of the TEA required the approval of the whole Vorstand. Those attending TEA meetings were informed in detail concerning all matters relating to production and expansion of plant facilities, including problems relating to manpower (PEs 330, 331, 332, 333, 334, 338 and 391).

#### The War Years

(25) Farben's production of Buna kept step with the requirements of war, just as it had kept step with Germany's requirements in preparing for war. (PE 547). In April 1940, a contract was entered into between Farben and the Reich, concerning the expansion of the Buna plant at Schkopau from 30,000 tons per year to 60,000 tons per year (PE 568). In April 1941, Farben stated that a continued drafting of Farben personnel would be disastrous, stressing that the whole of Farben's business, with decreasing exceptions, must be considered as essential to the war effort and "the greater part as vital for the outcome of the war". Buna was given as one example along with preliminary products for the explosives industry, etc. (PE 572). At a meeting of the Plastics and Rubber Committee (the "K" Commission) in May 1942, with ter MEER present, it was stated that "in spite of all difficulties, the ever increasing production of I.G. in the field of Buna and plastics will continue also in the future to play a decisive part in maintaining the huge war requirements" (PE 571). In June 1940, at a meeting of the Commercial Committee, attended by ter MEER, an application was approved requesting the Central Committee to make a contribution to German "cultural institutions" which were to be founded in the Southeast area, and which were to serve to "unite all endeavors toward political and cultural reproachment" (PE 818).

(26) In the latter part of the war years, Farben developed and began the production of the most deadly poison gas, which it was said

would penetrate any type of gas mask. At a meeting of the Vorstand of Anorgana in September 1943, with ter MEER, AMEROS and von KRIEGER present, the operation of the Seewerke Plant was discussed and reference was made to cooperation between Farben and Montan on a fifty-fifty basis. The Seewerke Plant was to produce Sarin. Reference was also made at this meeting to the precarious condition of labor, and there was a discussion of the allocation of foreigners and prisoners of war (PE 645).

(27) The following sections on Counts II and III likewise illustrate ter MEER's participation in successive German aggressions.

b. COUNT II - PLUNDER AND SPOILIATION

(28) As the first technical Vorstand member of Farben, defendant ter MEER was also, from 1933 up to the end of the Nazi era, the Chairman of Farben's Technical Committee (TEA). The TEA considered both under a technical and financial aspect, Farben's over-all expansion during the years of Germany's belligerent and aggressive occupation of the territory of other people. All the acquisitions made by Farben in occupied and conquered territory since 1938 were reported upon and thoroughly discussed in the TEA (PEs 2192 and 345; extracts from the minutes of TEA meetings). Defendant ter MEER also frequently attended the meetings of Farben's Commercial Committee which was particularly a forum for considering Farben's new "participations" once Germany had embarked on its policy of forceful expansion (PEs 1069, 1622, and 1623; extracts from the minutes of Commercial Committee meetings). Though officially neither the TEA nor the Commercial Committee had authority to make decisions, the Vorstand, in the words of defendant KRAUCH, "usually acted upon their recommendations" (PE 338). Defendant ter MEER, in his manifold capacities as first technical man in Farben's Vorstand and Central Committee, as Chairman of Farben's TEA, and as participant in Farben's Commercial Committee meetings, took part in, and approved of, the spoliation committed in Alsace-Lorraine, in the Rhone-Poulenc case, and in Norway. He took personally the lead in the spoliation of both

the Polish and French dyestuff plants. He was active in the plans to exploit the chemical industry of Russia and ultimately to have Farben share abundantly in the hoped for "reprivatization" of Russian industry. Herein we shall mention only a few of his activities to sharpen the outlines of his culpable participation. In the Polish case, ter MEER was the main actor together with von SCHNITZLER. In the Francolor case, he was the main actor together with von SCHNITZLER and KUGLER. The defenses interposed by defendant ter MEER in the Polish and Francolor cases, will be dealt with in this brief. Reference is also made to the Preliminary Memorandum Brief, Part II, p. 15 sequ. (Poland) and p. 38 sequ. (Francolor); and to this final brief, supra, Part III, Section B, on Francolor; to the individual briefs on von SCHNITZLER (Part VI-D) with reference to Poland; and to the individual briefs on von SCHNITZLER, KUGLER, and AMEROS (Part VI, D,X,J) with reference to Francolor.

#### Poland

(29) As to the cases of spoliation in Poland, the evidence has been reviewed in our Preliminary Memorandum Brief, Part II, par. 15 et seq. Since we feel that the defense has not introduced any substantial evidence affecting this case, we will not redevelop the case here. We confine ourselves to outlining defendant ter MEER's personal participation and defense.

(30) Defendant ter MEER's role in the cases of Polish spoliation was second only to that of defendant von SCHNITZLER. Apart from the proof established by contemporaneous documents, defendant ter MEER admits that the Polish "affairs were discussed in the Dyestuffs Committee, at the time, and since I participated in most meetings of the Dyestuffs Committee, I was probably informed about the negotiations in detail" (Tr. 7215). When during the first two weeks following the assault on Poland defendant von SCHNITZLER persuaded the Reich Ministry of Economics to appoint Farben officials as trustees of the Polish dyestuffs plants, it was defendant ter MEER who proposed Dr. Schoener as the technical "trustee" (Tr. 13144). Schoener (together with Schwab)



was then appointed "trustee" (PE 1140). Defendant ter MEER went on playing a predominant part in the case of Polish spoliation. Farben director Eckert who, in his "capacity as a member of the Dyestuffs Committee ... attended the internal Farben negotiations on the trusteeship and the acquisition of the Polish factories" stated that:

"in all negotiations which I carried on in this matter and in all letters which I wrote, I acted in accordance with the instructions of the Farben Vorstand: Dr. von Schnitzler and Dr. ter Meer" (PE 397, p.2, bottom).

#### Boruta Case

(31) After having been put on the alert by the course of the cross-examination of von SCHNITZLER's witness Schwab (Tr. 6134), defendant ter MEER, in his defense, has principally advanced the argument that neither he nor Farben, but rather the Nazi agencies, took the initiative in Farben's acquiring the Boruta plant (Tr. 7215, 13153; see also affidavit of Winkler, von SCHNITZLER Exh. 127). Ter MEER is supposed to have "opposed to the purchase of Boruta for a very long time" (Tr. 13153), but then "at the request of the Main Trustee Agency East, we had to consider purchase" (Tr. 7215). When Farben finally did acquire the plant, this was an example of a case "that happens sometimes that one is pulled into something against his own will" (Tr. 13153). Except that the defense has appeared, in our view, to put many new and strange meanings into such words as "compulsion", "pressure", and "government orders", we can not discover any government "pressure" nor any actual reluctance by Farben leaders. In fact, it is difficult to find any consistent claim to this effect. It has been proved beyond any reasonable doubt by both contemporaneous documents and the testimony of all Farben employees who, at the time, were in direct charge of this matter that the initiative was entirely Farben's. In his testimony already referred to, Schwab stated that the loan granted by Farben to Boruta was given by Farben on its own initiative: "No government official suggested it". The same appears from von SCHNITZLER's letter to the RMK of 10 November 1939 (PE 1141), in which "I.G. Farben takes the liberty of suggesting that, in addition to the

technical and business care it has already provided, it should also advance the means for putting the Boruta into operation again, and for keeping it running". As to the purchase, Schwab testified that it was Farben's "voluntary resolution" (Tr. 6134). Eckart who was principally in charge has stated: "In spite of this (i.e., of legal objections), Farben took the initiative in connection with the acquisition of the Polish enterprise" (PE 397). He maintained his statement under cross-examination (Tr. 3169). Farben's chief legal advisor who also took the stand, Dr. Kuepper, had said in his affidavit "that I.G. Farben took the absolute initiative in the acquisition of the Polish factories. It was not the German Reich which urged the I.G. to take over the factories. It is further correct that if the I.G. had had any doubts as to the legal validity of the acquisition, it could simply have remained passive in the affair" (PE 1176, p.2). (But where was Farben "passive" where expansion was involved?) Though Kuepper became the principal witness for the defense, particularly as a defense witness for von SCHNITZLER and ter MEER, he still maintained under cross-examination that "in the case of a sale that was desired, Farben was instrumental in effecting the acquisition" (Tr. 2915). It may also be noted that defendant ter MEER, in his affidavit of 2 May 1947 (ter MEER Exh. 246, p.2) which was made before Schwab's cross-examination (Tr. 6134), did not mention that Farben was allegedly acting in the Boruta case on government initiative. Note also defendant KUGLER's admission that, as early as in the middle of September 1940, I.G. Farben "certainly entertained the idea of acquiring one or the other (Polish) plant" (PE 1629; for further contemporaneous documents illuminating the affair, see PEs 1133, 1139, 1141, and 2003).

(32) Against this overwhelming evidence, the defense can only offer the affidavit of one witness: Dr. Winkler, the former head of the Trustee Office East (SCHNITZLER Exh. 127). But his defense testimony is not worthy of any credence. In his affidavit of 22 March 1948 which he gave to the defense, he analyzed in detail the circumstances

which led to the acquisition of the Boruta plant through Farben, including statements as to the party who took the initiative, as to the purchase price, the investment contemplated, s.s.o., s.s.o. His statement fills altogether eight pages. This very witness, when interrogated by the prosecution on the same topic on 9 September 1947, pretended to know so little about it that the interrogator had first to explain to him what "Boruta" stands for: namely, "a Polish chemical factory which was located near Lodz". The pertinent part of the interrogation is reproduced on Tr. 14175 et sequ. Winkler was, or pretended to be, so utterly ignorant of the circumstances surrounding the sale of Boruta that he was not even certain who were the parties to the sale negotiations. They were conducted "as far as I know" with I.G. Farben. After he had stated that the Main Trustee Office East was represented by Dr. Harle (of whose negotiations he now gives amazing details!), he corrected the minutes of the interrogation by inserting, in his own handwriting: "as far as I know" (Tr. 14176). It is idle to investigate further whether his recollection had so utterly failed him then (September 1947) or whether it completely deceived him now (April 1948). Apart from the fact that the two statements, both of them under oath, are incompatible, the contemporaneous documents and even other defense witnesses are eloquent proof of Winkler's regard for truth. The Nazi regime found Winkler a proper character to be chief of the Main Trustee Office East in the "Poland" of Hans Frank, Greifelt, "and company".

(33) Before title to the Boruta plant was acquired by Farben, von SCHMITZLER, on 16 January 1941, advised the Chief of the Main Trustee Office East, Dr. Winkler, of the steps Farben was contemplating for Boruta "in order to strengthen Germanism" (PE 1859). In an accompanying letter it was stated that this report was submitted to Dr. Winkler "in consultation with Dr. ter MEER" (PE 1859. This exhibit at the same time, rebuts ter Meer's denial, Tr. 13156). It was again defendant ter MEER who, together with defendant von SCHMITZLER, applied for the license in order to acquire the Chemical Works Boruta, including their real property (letters of 18 July 1941 and 5 January 1942, PE 1878, pp 2-3).



#### Winnica Case

(34) In the case of the Winnica shares, defendant ter MEER also played a leading part in "acquiring" the French 50% participation. \*) He represented Farben and signed the contract of 21/24 July 1941 by which the French owners surrendered their share (PE 1163). He then became a member of Winnica's board of directors (PE 1880).

(35) As to the dismantling of Winnica's antraquinone plant which was originally built by the French stockholders (Tr. 6100) and was the only one of this kind in Poland (Tr. 6131), ter MEER testified that such dismantling went back to the initiative of the two "State Commissioners" (Tr. 13149, bottom; 13150). By "State Commissioners" he means Schweb and Schoener. Why they acted this way, defendant ter MEER claims not to have known for certain. "Perhaps" the Reich Ministry of Economics gave them instructions to secure important machinery (Tr. 13150). That the plant was purchased by Farben was done "probably at the request of the Main Trusteeship Agency East" (Tr. 13150). As against this testimony, it suffices to refer to Farben's letter dated 11 June 1940 and signed von SCHNITZLER and Eckert (PE 1153) where it is said:

"According to the enclosed notification of the Reich Minister of Economics dated 7 May 1940, you have agreed, among other things, to grant our application for the transfer of the antraquinone installation of the Chemical Factory Winnica .... We intend to bring the aforesaid antraquinone installation to our Ludwigshafen works via Boruta".

Farben's initiative appears even more clearly from von SCHNITZLER's letter dated 10 November 1939 which is commented upon in this brief, Part VI-D, supra.

#### Wola Case

(36) As to Wola, see Preliminary Memorandum Brief, Part II, No. 16, and this final brief on defendant von SCHNITZLER's individual responsibility (VI-D, supra).

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\*) Noteworthy is ter Meer's explanation (Tr. 13147) from which it appears that I.G. Chemie, Basel, held the other 50% as Farben's trustee. As to the role played by I.G. Chemie, Basel, we shall find quite another explanation in the case of the Morsk-Hydro shares. See final brief on Morsk-Hydro, Part III, 13c, supra.

Russia

(37) The victorious Russian armies thwarted the ripening of the plans of some German industrialists to convert Russian factories for the use of German war economy and to keep them permanently after the war was won. But preparations were definitely being made, and Farben had a substantial part therein. Defendant ter MEER, according to his admission (PE 1181; also Tr. 7229; and PE 1184) discussed the model contracts for the so-called Russian trustee corporations with defendant ALBROS. He personally "inserted those protective clauses - or recommended their insertion- which were required in the rightful interest of I.G. Farben" (PE 1181, p.2). The protective clauses herein alluded to refer to Farben's request that it be granted a preemptive right to acquire title to Russian buna factories to be conquered: (PE 1182, No. 1. This is a letter drafted by Farben on 17 December 1941 which, according to Farben's plan, was to be sent to Farben by the Reich Ministry of Economics. The entire spoliative scheme and the utter neglect of the Hague Convention appear from this letter and its enclosure (PE 1183), Farben's draft of the trustee agreement. Also noteworthy is Farben's "draft of standing orders for communications between the Reich Committee and the Russian management of Synthetic Cauchouc (rubber) East G.m.b.H." (PE 1183, p.6). Among other things, the "approval of long-term contracts, especially those intended to remain in force after the expiration of the trusteeship agreement" is provided for (PE 1183, p.6, 1 e). The trusteeship agreement itself was planned for a three years' period (PE 1183, Par. 17). These are the model drafts in which defendant ter MEER admittedly participated. To which extent he intended to use Russian buna factories for the German war effort appears from another admission made by him (PE 1181, p.3). The gigantic enterprise in Auschwitz in which defendant ter MEER claims he "participated very unwillingly ... might have been dropped, had we converted a Russian factory to our process" (see also PEs 1185, 15, and 1186, of which defendant ter MEER received copies).

(38) All these plans, we should remember, were made within the framework of Germany's over-all policy for strengthening the German war potential. Defendant ter MEER received a copy of Farben employee de Haas' "Situation Report" of December 1941 (PE 1175) in which is outlined the program of the Nazi government against Russia, particularly the "ruthless stripping" of Russian industrial cities of the South and the shipment of their usable equipment to Germany. Ter MEER knew more than enough of the ruthless criminality of the Third Reich in the East. Even what he claims he did not know was implied in what he saw, read and experienced. Can one claim to have shut his eyes before the law to port the devil's handiwork when one was such a planner and co-worker in the joint venture?

#### Norway Case

(39) Defendant ter MEER was fully advised, and approved of, Farben's plans in Norway, including procuring the majority in Norsk-Hydro for a German group led by Farben (PEs 586, 1193, 1204, 1201, 1623, and 1200). As to the individual steps taken and the defenses interposed reference is made to the Preliminary Memorandum Brief, pp 31-35; and this final brief, Part III-B, supra, and Part VI-N, infra.

#### France (Alsace-Lorraine)

(40) Oxygen and acetylene plants (Preliminary Memorandum Brief, Part II, pp 21-22). Defendant ter MEER presided over the TEA meeting of 13 November 1940, where Farben's plan to acquire such factories in the conquered East and West, more particularly in Alsace Lorraine (Strasbourg, Marlebach and Diedenhofen) was discussed and credits made available for this purpose (PE 2192). For his attempted explanation see Tr. 13161.

(41) Plant of Société des Produits Chimiques et Matières Colorantes de Mulhouse (Preliminary Memorandum Brief, Part II, page 20). Defendant ter MEER does not contest his personal participation in acquiring this factory which was taken away from the French owner and, together with its real property, transferred to Farben. In his



defense, he states that "there was no possibility of paying anything to the former French owners, but we did arrange with the Francolor people that after the conclusion of the peace treaty we would talk about this affair with them" (Tr.13049-50). He is rebutted by PE 1885, p.5, where he stated that his "Sparte" originally intended to include the Mulhouse plant in the Francolor agreement, but that the intention was abandoned" as it would have rendered our position with regard to Francolor more difficult, and we considered this undesirable". In other words, it was not the "impossibility" of paying the purchase price to the owners, but rather the "undesirability" of negotiating this deal with the true owners which was the reason for acquiring the plant through an agency which just confiscated the plant and was, therefore, more easy to handle. Nor is it true that the plant "had been confiscated as French property by the chief of the Civilian administration of Alsace" (Tr. 13049). As a matter of fact, as PE 1218 shows, this agency was just confiscating the plant in order to transfer title to I.G. Farben, those two acts having been closely planned and interconnected. That Farben allegedly improved the plant which it now considered its own (affidavit Dr. Schnell, ter MEER Exh. 244) has no possible bearing on the question of spoliation committed by Farben in acquiring the plant.

#### France (Rhône-Poulenc)

(42) Defendant ter MEER was fully advised and approved of the spoliative agreements entered into between Farben's Bayer branch and Rhône-Poulenc. He attended most of the Commercial Committee meetings in which the Rhône-Poulenc matter was discussed before the license agreement of 30 December 1940, was signed (PE 1622). He also received and initialed the agreement itself (PE 1882 and Tr. 7232). As to the Rhône-Poulenc case and the defenses interposed, reference is made to this brief on Rhône-Poulenc, (Part III-D, supra) and to the individual brief on defendant MAER (Part VI-R, infra).

France (Francolor)

(43) Defendant ter MEER admits that he participated in all the important Francolor negotiations (PE 1257 and also Tr. 13043). As to the time before the Wiesbaden meeting of 21 November 1940, see PE 1258, p.2). He attended all important Commercial Committee meetings in which the Francolor problem was discussed (PE 1622). He also received, through Farben's Paris representative Dr. Kramer, the reports "with respect to all negotiations undertaken by Michel's staff in Paris (Michel himself, Kolb, Neef or others) with the French" (PE 1258, p.4). He instructed Dr. Loehr, his Deputy Chief of the TFA office, to work on his behalf on particular clauses of the Francolor Convention dealing with the transfer of know-how, patents, etc. (Tr. 7225). He personally undertook to correct or change the draft of the Francolor Convention by long-hand (PE 1883; Tr. 7224). His remarks, as said Exhibit shows, were not restricted to technical questions. See also PE 2153, p.2, as to his leading part in drafting the Francolor Convention. Defendant ter MEER signed the Francolor Convention itself (PE 1255). He became a member of Francolor's Conseil d'Administration (PE 310). As far as Francolor production is concerned, he, together with defendant AMEROS, was principally in charge (PE 2198, 1913, 1911 and 1915). As the evidence shows and defendant ter MEER admits, he was fully aware that

"at the beginning, the French firms were not susceptible to the suggestions of Farben at all" (Tr. 13009).

At the Wiesbaden meeting, they stated in his presence that they considered von SCHNITZLER's suggestion as a "dictate", and the "alliance" with Farben as something to be imposed upon them (PE 2194). On the limiting of French exports at that meeting, he was even more rigorous than von SCHNITZLER (PE 2194).

(44) Ter MEER knew from his own knowledge of the difficulties the French had to cope with after the Armistice (Tr. 13047). Since this plight was particularly caused by the lack of raw material and the loss of export markets, he was, of course, aware that Farben's intervention with Nazi government authorities in order to increase

just these difficulties was hitting the French industrialists at their sorest spot. Of KUGLER's most revealing file note (PE 1886) he received a copy and the same applies to Kuepper's memo of 1 July 1941 concerning the preamble to the Francolor Convention (PE 2150). As to details, see final brief on KUGLER (Part VI-X, infra). He also received KUGLER's letter of 12 May 1941 where KUGLER reported that in a counter-suggestion to the draft dictated by von SCHNITZLER in Paris,

"the attempt is mainly being made (by the French) to substantially mitigate the fundamental export prohibition" (PE 2153, No. 5).

In line therewith, together with von SCHNITZLER, he signed the letter to the French Ministry of Finance of 3 November 1941. There he described the export restriction to be imposed on the French under the Francolor agreement as its "leading principle" (von SCHNITZLER Exh. 73, Book IV, p. 20). Compare this attitude actually taken by him concerning French exports with his affidavit, ter MEER Exh. 246, Book III, p. 60 bottom).

(45) As to the Francolor case itself and the main defenses interposed by the defendant, reference is made to the Preliminary Memorandum Brief (Part II, pp 36 sequ.) and to this brief (Part III-C, supra.). In addition thereto, just one point stressed by defendant ter MEER will be taken up here. When asked about the dictatorial character of the Francolor agreement charged by the prosecution, ter MEER testified (Tr. 13044): "Sometimes one side had to concede a point; sometimes the other side conceded; and, thus, finally, the finished version was arrived at". See also his statement at Tr. 13016. The truth, however, as far as any points of importance are concerned, is this:

(a) To begin with: The French did not want the entire "alliance" with Farben. Consider their very first reaction on 22 November 1940 (PE 2194) and their constantly maintained opposition (PE 1250). But they had to yield.

(b) The concentrated efforts of both the French industrialists and even the Vichy government were directed against a 51% participation



of Farben. The last attempt to resist was made by the Vichy government (Mr. Puchaux) on 6 March 1941 (PE 2148). After Kramer had advised the main office in Frankfurt that now pressure should be used against the Vichy government (PE 2148), Dr. Michel contacted Mr. Puchaux, and a few days later, on 12 March, the Vichy government "agreed" to the 51% participation (PE 1253, p.4). A few weeks later ter MEER had good reason to be "gay" in Paris and to write on the cover of his Francolor folder the title of the ditty "For in the Woods, There are the Robbers, 23 July 1941" (PE 1888, our emphasis).

(c) Even after the Vichy government and the French industrialists had bowed to Farben's 51% participation, they were, according to defendant KUPLER's contemporaneous report of 12 May 1941, "trying everything in order to limit the activities of Francolor to the dyestuffs field only, and to reserve for the parent companies a development of their own in the chemicals field or in the field of evolution". He adds "that, in any event, it seems that, within the parent companies, and more particularly within Kuhlmann, certain forces seem to have gained momentum which are trying to prevent the weight of the whole organic sector from being shifted to Francolor. Said forces also try to forestall an alleged hegemony of Farben in the non-dyestuffs field". (PE 2153, p.2). Again, the French had to yield since the Francolor Convention established the very situation they had tried to prevent (PE 1255, Art. 18-20; compare ter MEER himself, Tr. 13041; also PE 2143).

(d) As official reason why they must insist upon a 51% participation rather than on 50%, Farben had referred to a new French statute giving the President of a French corporation allegedly unrestricted powers. Since the President was to be a Frenchman, Farben allegedly needed a "counter-balance" (PE 1253, p.3; see also testimony of defense witness Kupper, Tr. 6008; and ter MEER, Tr. 13061). In fact, however, Farben itself insisted upon restricting the powers of the President in contradiction to the new French statute so that

Farben itself "devaluated" this "defense argument justifying" the 51% participation. \*) Consequently, one of the major points of French resistance was this very restriction of the powers of the President who, according to Farben's proposal, was to depend, to the largest degree, on the Board of Directors (Conseil d'Administration) (PE 2153, No. 1). In the end, however, the French yielded, and Vichy, by a special decree, sanctioned the restrictions of the powers of the President, in contradiction to the French statute (see PE 1254, with respect to the pertinent articles, Art. 27 and 28; also PE 1256, Art. 16-28).

(e) Farben also had suggested making the President fully dependent on Farben by inserting the clause that the meeting of stockholders could unseat him virtually at any time. Since Farben - holding 51% - dominated the meeting of stockholders, this meant that it was Farben on whose mercy he had to rely (Tr. 6039). This was another point where the French tried to resist (PE 2153, No. 6). Defendant von SCHWITZLER, however, felt it is

"certainly quite a presumption if they (the French) now try again to come back to the matter of the 'revocation' of the President" (PE 2143),

and the result was that the French again gave in (PE 1256, Art. 20, par. 3 and 4).

(f) It was particularly repugnant to the French that Farben, under the Francolor Convention, prohibited their exports. Again and again, they raised this point (PE 2153, No. 5; von SCHWITZLER Exh. 71, Book IV, p. 11, B; and von SCHWITZLER Exh. 73). But again, the French yielded (PE 1255, Art. 15, Par. 3).

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\*) That the argument is untrue, and was untrue at the time, is proved by PE 1855. Before the French statute was even known to Farben, they already were in favor of a 51% participation, on the ground that the "drastic measures" they had in store for Francolor, e.g. closing down of various productions, would not easily be accepted by a corporation of which 50% was in French hands (PE 1855, p. 2. Compare Kuepper who would like to have the English translation "drastic measures" replaced by "encroaching measures", Tr. 6039).

(g) The French parent companies were, likewise, "not willing to enter into a competition clause" (PE 2153, No. 1). In the end, they had to yield again, for Art. II of the Francolor Convention (PE 1255) contains this very clause.

The French objections, (c) to (g), supra, were summarized by defendant KUGLER in his letter to defendant von SCHNITZLER of 12 May 1941 (PE 2153) of which defendant ter MEER was advised at the time. Defendant KUGLER also reported that he would now convene with the other Farben people in charge, and then have a discussion with defendant ter MEER. The result, as shown above, was that, in all points, the French were defeated.

(h) We already stressed the reason why the French had to accept Farben shares rather than cash under the Francolor agreement: Under no circumstances were they to be given any free capital which they could have re-invested in order to acquire further independence from Farben (Part III-C, No. 18, supra). But the defendant ter MEER was not satisfied with that. Quite generally, he wanted to prevent the French from any active participation in the dyestuffs field in any part of the world. Since the Francolor agreement was to be entered into for a 99 years' period, the French tried to alleviate this proviso by, at least, interpreting the word "actively", used in this connection, so as to mean that capital investments in the dyestuffs field should be allowed to them outside of France, her colonies and protectorates (PE 1883). By his "No", written opposite this French request (Tr. 7224), defendant ter MEER finished the discussion of this point. Article II of the Francolor Convention (PE 1255) kept the wording to which the French were opposed. Noteworthy is ter MEER's attempted explanation (Tr. 13213) where he pretends to misunderstand the real meaning of the French request.

(46) It appears from the evidence just reviewed, together with the evidence discussed in the final briefs on Francolor. (Part III-C, supra), and in Part VI, "Dr. von SCHNITZLER", pp 110-112, supra, and in Part VI, "X - Hans KUGLER", below, that the French never changed



their mind as to the utter undesirability of the planned Francolor Convention and the many terms to be imposed on them thereunder. The contemporaneous documents do not allow of any doubt. They culminate in the preamble to the Francolor Convention which the French inserted and, in spite of Farben's reluctance, were able to maintain (PE 1255, p.1; PEs 2149, and 2150). In order to properly weigh the value of the testimony given by the defendants and their affiants, we should just remember how they characterize the Francolor agreement and the negotiations which led up to it.

Defense witness von Rospett: The French were

"fighting very hard for the various conditions of the contract so that one had the impression that they were absolutely masters of their own decisions" (Tr. 13032).

His general impression was

"that we (Farben) gave in more than the French did" (Tr. 13033).

Defendant ter MEER himself testified:

"The French people apparently felt that this very agreeable and pleasant contract with Farben might, in the last hour, be brought to naught" (Tr. 13012).

Accordingly, in the meetings to follow after the contract was signed between Farben and the French

"there was one spirit, one heart and one soul" (Tr. 13062).

Compared therewith, defendant KUGLER appears to be relatively modest when he testifies he might well have described the Francolor agreement as a model for other contracts:

"so beautiful was this Francolor agreement" (Tr. 12699).

c. COUNT III - SLAVERY AND MASS MURDER

(47) Under Count III of the Indictment the defendant Fritz ter MEER is charged with participation in the commission of war crimes and crimes against humanity particularly as they relate to the enslavement and deportation to slave labor of members of the civilian populations of countries and territories which came under the belligerent occupation of Germany; the enslavement of concentration camp inmates; the illegal use of prisoners of war; and the mistreatment, torture and murder of enslaved persons. The defendant is charged with having committed these war crimes and crimes against humanity as defined by Article II of Control Council Law No. 10 in that he was a principal in, accessory to, ordered, abetted, took a consenting part in, and was connected with plans and enterprises, including Farben, which were connected with the commission of said crimes.

(48) Ter MEER was chairman of the Farben TEA. The TEA was regularly informed of the trend and status of workers, as well as the different categories of workers such as foreign workers, P.W.'s and concentration camp inmates in the Farben plants (PE 1557). The percentage of such workers by October 1944 reached about 50% of the total of the 180,800 workers employed by Farben (PE 1558). The serious consideration of these employment figures was the job of TEA because it had to pass upon the credits for the housing of these workers and recommend to the Vorstand the approval and allocation of the credits so passed upon (PE 1318).

(49) Ter MEER reported the TEA meetings to the Vorstand of which he was a member. It was the responsibility of the Vorstand, as the employer in the sense of the Law for the Regulation of Labor, to decide the workers' fate, determine conditions, etc. (PE 1309).

(50) In his examination ter MEER mentioned the above statistical reports concerning labor which were presented to the TEA. In connection with these reports he stated:

"But as long as there was an over supply of labor, this was more or less of a formality. From the moment when there was a scarcity of labor it

became something quite different..." (Tr. 7129).

According to ter MEER's testimony there was a scarcity of labor in Germany from 1939. He said that unemployment was done away with in Germany in that year (Tr. 7131). As early as 1938 Farben had a comparatively large number of Dutch workers in the Huls plant (Tr. 7129).

(51) Ter MEER interested himself in labor matters not only at the TEA and Vorstand levels. Defendant SCHNEIDER has stated that ter MEER was present several times at the Plant Managers Conferences where employment problems were debated and experiences exchanged (PE 1329). Ter MEER stated on examination that he attended these meetings about three times and that he visited Farben plants frequently (Tr. 7127). Defendant KUEHNE in the Directorial Conference of 10 March 1941 at Leverkusen in referring to a discussion with ter MEER talked about the difficulties in labor employment (PE 1371). In 1942 ter MEER became deputy chairman of the Economic Group Chemical Industry. The deputy chief manager of this organization has stated in an affidavit:

"Without doubt, Dr. ter Meer used this position to secure advantages for the firm he represented (I.G. Farbenindustrie A.G.) over other chemical plants in the procurement of foreign workers" (PE 499).

On examination affiant Ehrmann said:

"This statement is based on statements of the consultant for labor commitment in the Economic Group Chemical Industry, Dr. Schroeder ... and as far as I remember from statements at the time of Dr. Schroeder, the representatives of Farben who were in a position to use Dr. ter Meer's agency seemed to use their position to gain advantage in the procurement of foreign laborers for their own firm" (Tr. 1728-1729).

Struss, the director of the TEA, has said:

"Everybody in Germany knew that foreigners were brought to Germany against their will since the capture of Kiev (November 1941). The members of the TEA certainly knew that I.G. employed concentration camp inmates and forced laborers. That was common knowledge in Germany, but TEA never discussed these things" (PE 1318).

(52) Ter MEER on direct examination admitted knowing that recruiting of foreigners became compulsory (Tr. 7135). He also admitted on direct examination that he knew concentration camp inmates were employed



in Farben plants (Tr. 7139). Ter MEER follows the uniform manner in which all the defendants have passed off the forcible employment of foreigners with the would-be justification that German workers, too, were conscripted. In answer to the question of his counsel:

"Did you ever hear that foreign workers were treated worse than German workers?"

Ter MEER replied:

"No, I never heard that. I must of course make a distinction as to housing. The normal German worker lived in his own residence, with his family, while the foreign worker had to live away from his family, in a barracks. That was not possible in any other way during wartime. But even German workers who had been conscripted for labor had to live in barracks" (Tr. 7133).

Ter MEER testified that in a TEA meeting in 1943 Dr. Struss and Dr. JAEHNE mentioned that the sum to be spent on barracks had reached the magnitude of 100 or 120 million Reichmarks.

(53) Before ter MEER took up his position in Italy in September 1943, he visited KRAUCH during the occupation many times (Tr. 7204). When asked on cross examination if he followed, to any extent whatsoever, the activities of the labor representative of the KRAUCH Office, he testified:

"I believe that in France I hardly know anything about the activities of the gentleman recruiting labor in France from the Krauch Office. At the time, during my interrogation, I stated that I possibly might have seen Herr Kirchner in Paris, but that I did not remember it distinctly. In Italy I also did not observe the work of Herr Kirchner and the other people, Daichmann and Eckert, in detail, because I rejected to work with them and to support them" (Tr. 7204-7205).

And further:

"I know, for instance, that those people who had been selected for transfer to Germany, received their notification cards from the Italian labor offices, to be physically examined by doctors, and that they also received orders from the Italian labor offices to take a train to Germany if they passed their examinations" (Tr. 7205).

Ter MEER heard Sauckel lecture in Italy and testified that he had the impression that Sauckel thought of compulsory measures (Tr. 7206). But before he had heard Sauckel, let us consider what ter MEER wrote to Struss on 7 March 1944 on the subject of "Procurement of Labor for

Germany" (FE 1877). In this letter ter MEER states:

"The Referent concerned, of the GBA, with a staff for armament and war production and Colonel Kirchner and Dr. Deichmann, are trying to issue a final decree about the compulsory recruitment of chemical workers during the course of this week.. (our emphasis)"

"As soon as the wording of this decree is definite, I will see that you get a copy of it" (Tr. 7207).

Before prosecution confronted ter MEER on cross examination with FE 1877, ter MEER had just testified that he did not know of Kirchner's interest in a compulsory decree for sending Italian workers to Germany (Tr. 7206), and he had just testified that:

"In Italy I also did not observe the work of Kirchner and the other people, Deichmann and Eckert, in detail, because I rejected to work with them and to support them" (Tr. 7204-7205). (our emphasis)"

But there is even "evidence" submitted on behalf of the defendant ter MEER that he boldly took measures in Italy to prevent the German authorities from shipping Italians to Germany.

(54) In this connection in the affidavit of Johann Simon (FE 1360, cross examination waived), Simon stated:

"I made two trips to Italy from the end of March to the beginning of June and from the beginning of July to August 20, 1944. During this time I obtained my regular salary from Hoechst and my expense account from O.B. Chem. My task was to examine plants of the chemical and textile industries in Upper Italy. The examination had the purpose to determine to what extent the labor of these plants could be made available for allotment in Germany. The result of these examinations was submitted in a report which went to the labor board for chemicals (Arbeitsstab Chemie) in Milan and to the German labor allotment boards (Arbeitseinsatzstaebte). The German labor allotment boards negotiated with the Italian labor offices and induced them to recruit the Italian workers suitable for employment in Germany. The Italian labor office summoned the workers to appear for the purpose of a medical examination by an Italian physician to determine the physical fitness of the individual, and for the signing of a labor contract."

The "window-dressing" nature of contracts signed by most foreign workers after Germany controlled the labor offices in occupied countries needs no laboring in this brief. The desire to give a "voluntary" appearance to a status induced by force is not new in this record (cf. Francolor under Count II).

Farben's Activities at Auschwitz

(55) The first technical leader of Farben can only be compared in stature with the defendant AMEROS in the "buna" story. I.G. Auschwitz and buna are closely related. For the activities of Farben at Auschwitz, ter MEER bears a great responsibility.

(56) At a meeting in November 1940, between representatives of Farben and the Reich Ministry of Economics, it was decided to enlarge buna production through the erection of a new Buna plant in the East. Silesia was mentioned as the site for the new plant, and it was stated that the initial negotiations for financing and settling on the site should be undertaken immediately in accordance with the suggestions of KRAUCH (FE 1408). In December 1940, AMEROS and others made a trip to Upper Silesia for the purpose of surveying plant sites for the construction of the fourth Buna plant (FE 1409 and FE 1419). On 6 February 1941 AMEROS reported on the Auschwitz site in detail to ter MEER and KRAUCH, specifically informing them of the existence of the concentration camp Auschwitz. It was at that meeting that the Auschwitz site was selected. (FEs 1419 and 1414). After selecting the site, ter MEER met with AMEROS on the same day in order to arrange for the financing of I.G. Auschwitz (FE 1413). It was ter MEER who was the member of the Vorstand "finally competent man for the project" (FE 1420). As head of Sparte II, it was ter MEER to whom AMEROS reported. On the important question of what labor was contemplated to be used in the building of I.G. Auschwitz, ter MEER was asked on cross examination:

"Now did you expect that German unskilled workers would be brought from Germany to do the unskilled work at Auschwitz?"

And he answered:

"No doubt we thought that the Germans who we were going to settle there would predominantly be skilled workers, foremen, masters, etc" (Tr. 7200).

Bearing in mind that in a construction project, the vast majority of workers are unskilled, ter MEER's testimony that the Germans to be settled in Auschwitz would be "predominantly" skilled is revealing.



It shows that the "resettlement" of Germans was not the method intended for obtaining the vast numbers of necessary unskilled labor for I.G. Auschwitz. What ter MEER left unsaid was filled in by testimony of Struss who stated:

"One decided for Auschwitz, and I recollect that the reasons for it were the following: (1) the near location of coal mines; (2) the availability of labor from the concentration camp of Auschwitz; (3) the absence of a likelihood, relatively speaking, of air raids. I knew from the figures which I received from Bertrams and, in 1941, was told by Ambros himself that concentration camp workers were also used by I.G. in plants other than Auschwitz" (PE 1318).

On cross examination Struss reiterated the fact that in the selection of Auschwitz the procurement of labor was taken into account and said:

"If I remember correctly, Dr. Ambros realized from the very beginning that he could get only a very small percentage of German workers for Auschwitz. He wanted to use the indigenous Polish rural population in Auschwitz for his workers, and secondly, he wanted to use the inmates from the concentration camp Auschwitz" (Tr. 4077-4078).

(57) AMBROS thus informed the TEA concerning the availability of concentration camp labor. The construction of I.G. Auschwitz was also discussed at the TEA meeting and the results of the TEA meeting were discussed by the Vorstand. Both the TEA and the Vorstand approved the construction of I.G. Auschwitz and the necessary funds, knowing that it was planned to use concentration camp inmates (PEs 1418, 1419 and 1420). Neither the Vorstand nor the TEA raised any objection or protest against the use of concentration camp labor to build I.G. Auschwitz (PE 1418). The Vorstand authorized BUETEFISCH, who was a member of the SS, to negotiate with Wolff of the SS for the concentration camp workers (PEs 1418 and 1420). On 18 February 1941, an order was issued by Goering to Himmler, at the request of KRAUCH, stating that in order to build a Buna plant at Auschwitz at the highest possible speed, certain measures would have to be taken to provide labor. These measures included expelling Jewish people to make way for Farben personnel, and making available the largest possible number of inmates from the adjacent concentration camps, the number being estimated at between 8 to 12,000.

Goering requested that he be informed immediately of any orders which should be jointly issued by Himmler and KRAUCH in this matter (PE 1417). On 22 February 1941, ter MEER sent a letter to the Reich Ministry of Economics, suggesting certain financial arrangements arising out of the fact that the erection of a plant at Auschwitz would cost approximately an additional 60,000,000 Reichsmarks (PE 1421). On 26 February 1941, Himmler issued a decree carrying out Goering's orders, including the evacuation of Jews and "unusable Poles"; and making concentration camp inmates available. Wolff of the SS was designated as the liaison man between Himmler and I.G. Auschwitz (PE 1422).

(58) In a TEA meeting of 19 March 1941, with ter MEER present, AMBROS reported on the Buna factory at Auschwitz; BUETEFISCH reported on the acquisition of the Fuerstengrube mines and the development of a Leuna plant at Auschwitz to be integrated with the Buna plant. The TEA authorized the expenditure of approximately 20,000,000 Reichsmarks at I.G. Auschwitz (PE 1425). On 7 April 1941, there was a "Founders Meeting" at Auschwitz celebrating the founding of I.G. Auschwitz. The hard coal of Upper Silesia was mentioned as a source of life for the new plant, and it was stated that BUETEFISCH had arranged for obtaining the coal from the Fuerstengrube mines. It was stated that extensive assistance from the Auschwitz concentration camp had been promised, and that the concentration camp would supply labor. The complete evacuation of the Polish population was planned, since it was the aim of the Reichsfuehrer SS to create on this spot "an exemplarily Eastern settlement - particular attention being paid to settling here men and women who were quintessentially German" (PE 1430). On 12 April 1941, AMBROS sent a letter to ter MEER enclosing reports on construction conferences which had taken place at I.G. Auschwitz under Farben's direction. The Founders Meeting of 7 April was referred to. AMBROS concluded:

"Dr. Eckell proved his worth in this connection, and in addition our new friendship with the SS is proving very profitable."

AMBROS adds that at a dinner given by the administrative authorities of the concentration camp, all measures connected with the use of "the

superb plant of the concentration camp for the benefit of the Buna works" was decided upon (PE 1431). Ter MEER received copies of the monthly construction conference reports of I.G. Auschwitz and was thereby "fully informed about the building conferences" (PE 1419).

(59) At a secret meeting of the Plastics and Rubber Committee in October 1941, there was a discussion of the development of the buna works at Auschwitz and the state of the construction work. It was also indicated at the meeting that supplies of coal were assured through the founding of Fuerstengrube. The minutes of the meeting state "the support given by the Concentration Camp Auschwitz is very valuable. This camp made available 1300 men and all its workshops". Ter MEER and AMEROS attended this meeting and copies of the minutes were also sent to FURSTER, LAUTENSCHLAGER, KUEHNE and BUERGIN (PE 569).

(60) The TEA meeting of 24 April 1941 (at which SCHMITZ and ter MEER were present) approved over 22,000,000 Reichsmarks for construction at Auschwitz (PE 1432). At a Vorstand meeting of 25 April 1941, AMEROS and BUETEFISCH gave a detailed report of the plans for I.G. Auschwitz and the Fuerstengrube Mines (PE 1433). The TEA Meeting of July 1941 (ter MEER and SCHMITZ present) approved additional funds for the Launa works at Auschwitz, and 35,000,000 Reichsmarks for the Buna works at Auschwitz (PE 1434). Large amounts of additional funds were approved at a number of TEA meetings thereafter (PEs 1441, 1442, 1491, 1498 and 1499). The TEA meeting of September 1942 (SCHMITZ and ter MEER present) discussed the employment of foreign workers, prisoners of war, etc. on the basis of charts displayed at the meeting. The construction of barracks for foreign workers was authorized and over 10,000,000 Reichsmarks approved for I.G. Auschwitz (PE 1491).

(61) The tragedy of I.G. Auschwitz has been developed quite fully in this brief, Part IV, with some emphasis upon most compelling evidence from defense witnesses who held high positions in the supervisory structure of I.G. Auschwitz itself. We will not again treat here the evidence showing that the Vorstand members generally, quite as well as the local management, knew of these appalling conditions. But it is



appropriate to refer here to ter MEER's visits to Auschwitz and to the testimony of ter MEER's right hand man, Dr. Struss, the chief of the Office of the Technical Committee.

(62) Auschwitz was discussed generally in the TEA in April of 1941 and comprehensive lectures were given there on Auschwitz in November 1941 (Tr. 4075). Ter MEER visited Auschwitz in October 1941 and November 1942. In his direct testimony on the October 1941 visit to Auschwitz he denied recollection of seeing a large chimney (chimney from the Auschwitz crematorium) (Tr. 7161). On cross examination he was asked:

"When you made your tour of the concentration camp proper, in October 1941, were you shown as a point of interest the crematorium?"

To this he answered:

"During the inspection of the concentration camp in 1941, I saw from the main road leading from the entrance into the camp, a curious small rounded hut-like structure and since it looked very peculiar, I asked what it was. I was told that it served the purpose of cremating corpses in case of deaths that had arisen" (Tr. 7204).

Dr. Struss also visited Auschwitz several times. Concerning the atrocities at Auschwitz Struss has stated as follows in a sworn interrogation (PE 1876):

"Q. Tell us how it came about that you heard at that time in February 1942 about the atrocities at Auschwitz?

"A. In my compartment there was a man, a working man, and he told with loud voice to the other men and wives in the compartment that in Auschwitz concentration camp people were burned in a crematorium (he said not the word crematorium) and in large numbers. If they had not enough place to burn the bodies, they made large pyres and burned them in the pyres, and then the whole air in the work Auschwitz was filled with the smell of death. I was very deeply impressed and I sprang up and said he should not say such lies.

"Q. Let me interrupt for a moment and see if I understand. On this train in your compartment some workman stated that people were being burned at Auschwitz and that they were burned in the open on pyres?

"A. No, when there was not enough space in the ovens they were additionally burned in pyres.

"Q. And that the smell of burning flesh was known at the Buna plant. You understood him to say that? All right, go ahead. What did you do when you heard that?

"A. I sprang up and said, 'They are lies,' and he said, 'No, they are not lies, there are 10,000 men or more at Auschwitz and all of them know it'.

....

"Q. When you were troubled about a thing like this, didn't you feel that it was important enough to investigate yourself?

"A. (Through interpreter Hauptman) He asked people coming from Auschwitz if they knew about it. When he asked those people coming from Auschwitz about those happenings, no one agreed to it, but they answered evasively.

"Q. Did any people deny that such conditions existed?

"A. No.

"Q. They did not deny it?

"A. No, they did not deny it and they did not agree.

"Q. They evaded a direct question?

"A. Yes.

....

"Q. Did anyone of the people to whom you spoke disprove that the conditions were such as you heard?

"A. Nobody said 'no'.

"Q. Were you satisfied in your own mind after your investigation that the conditions at Auschwitz were bad? Were you satisfied they were bad?

"A. Yes, not the plant Auschwitz, you mean the concentration camp Auschwitz.

"Q. Nobody to whom you spoke told you otherwise, is that correct?

"A. Nobody said 'they are good', no, in the concentration camp.

"Q. From your investigation of the situation in February 1942, were you convinced that conditions in the Auschwitz concentration camp were bad?

"A. Yes.

"Q. Were you convinced that they were bad?

"A. I was convinced they were bad.

....

"Q. In the summer of 1943 you visited Auschwitz again. Did it occur to you that you should investigate it then?

"A. No, I asked in Auschwitz a responsible man, the chief engineer Heydebroek. (our emphasis)

"Q. What did you ask him?

"A. He said it was true. I can give you from Frankfurt the exact date. (our emphasis)

"Q. At your visit in 1943 at Auschwitz, you asked the chief engineer Heydebroek whether the conditions at the Auschwitz concentration camp were true, and what did he tell you?

"A. He told me the conditions were true.

"Q. Was that after your visit in Auschwitz 1943 you made personal inquiry from the chief engineer of the Buna plant whether conditions were bad at the Auschwitz concentration camp?

"A. No, I told him what the man said on the train.

"Q. You reported to the chief engineer what the workman said on the train, and the chief engineer said what the workman had said was true? (our emphasis)

"A. Yes. (our emphasis)

....

"Q. And to your best recollection you told that to Ambros and ter Meer? (our emphasis)

"A. Yes. (our emphasis)

"Q. Did Mr. Schmitz know about this? (our emphasis)

"A. I cannot say it. (our emphasis)

"Q. Did Mr. ter Meer? (our emphasis)

"A. Mr. ter Meer must have known. (our emphasis)

"Q. Your recollection is that you discussed this with ter Meer?

"A. Yes.

"Q. Was there any discussion among the people?

"A. I don't know, but there must have been.

"Q. Is this your statement, Dr. Struss, after I spoke to Heydebroek I was convinced that the situation at the Auschwitz concentration camp was as bad as they had told me, but I was hoping that it was not true. Is that a fair statement?



"A. Yes, that is a fair statement. I had only 1% of hope that it was not true.

"Q. And that was in 1943?

"A. Yes, that was very hard for me" (FE 1876).

But ter MEER has stated on direct examination that the first he heard about exterminations at Auschwitz was from Col. Tilly at Kransberg in July 1945 (Tr. 7164). Struss in respect to his discussion of the Auschwitz burning with ter MEER has also stated in an affidavit dated 21 November 1947 the following:

"On November 1, 1947 Dr. ter Meer and his attorney, Dr. Berndt, discussed with me in Frankfurt various subjects relating to my affidavits. This I understood was with the approval of the Tribunal. During that discussion I mentioned to Dr. ter Meer the facts which I recited in the interrogation hereto attached, namely, I asked Dr. ter Meer whether he remembered that after my second visit in Auschwitz I informed him about the burnings in the concentration camp Auschwitz. Dr. ter Meer replied that it is possible that I told him that and that he replied at the time, 'One should not rely too much on rumors.' If Dr. ter Meer made that reply to me in 1943 as he now says he did, which I do not recall, then in all probability I would not have discussed the matter further with him because Dr. ter Meer is a man with a short temper and on occasion deals very abruptly with people" (FE 1876).

On cross examination ter MEER stated that Struss' description of the discussion between Struss and himself on 1 November 1947 was wrong and that he rather told Struss:

"It is possible that you made to me some general indications, and that I then briefly interrupted you, and I told you I didn't want to hear anything of rumors" (Tr. 7194).

Ter MEER may have been short-tempered and interrupted Struss for desiring to discuss human extermination at Auschwitz, but if he did, he certainly did not do so until he had checked Struss' sources of information (chief engineer Heydebroek, among others) - and if he did, it could only be because ter MEER didn't want to burden his conscience further with the horror he already knew. When one's right-hand man makes such a report, the burning of thousands of human beings, a normal man does not interrupt except for reasons beyond the ordinary - and particularly when he himself had seen a crematorium at the principal labor-source of a plant over which he had supervision and direct

responsibility.

(63) As late as March 1944, after ter MEER had been in Italy for several months, he wrote to Struss from Milan concerning the recruitment of Italian labor for the German Chemical Industry. In this letter he stated that representatives of KRAUCH's office were attempting to secure the issuance of a decree for the compulsory recruitment of Italians for the German Chemical Industry. Ter MEER mentioned the fact that AMBROS desired Italian workers for I.G. Auschwitz (PE 1877). Ter MEER's interest in Auschwitz did not end when he went to Italy in 1943.

d. COUNT V - CONSPIRACY

(64) The comments made in the individual brief on the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant ter MEER.

5. Defenses Interposed by Ter MEER. Insofar as we believe any of the special defenses raised by ter MEER deserve mention in this individual brief, they have been discussed in the main text above. The overall defenses of ter MEER present nothing distinctive. The Tribunal is particularly referred to Part V, supra.

6. Proposed Findings of Fact With Respect to the Guilt of Fritz  
(Friedrich Hermann) ter MEER.

The evidence has established beyond a reasonable doubt, the guilt of the defendant Fritz (Friedrich Hermann) ter MEER on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant ter MEER under each of these Counts is predicated upon the following facts, which have been established by the proof:

Count I

1. The following activities of ter MEER, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) Ter MEER's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1933 to 1945; as a member of the Central Committee from 1933 to 1945; as Chairman of the Technical Committee (TEA) from 1933 to 1945; and as Chief of Sparte II from 1933 to 1945.

(b) Ter MEER's activities as an official of the Nazi government, including his activities as member of the Advisory Board from 1938 and as deputy chairman of the Economic Group Chemical Industry from 1942 to 1945; as Beauftragter for the Italian Chemical Industry from September 1943 to April 1945; and as military economy leader from 1942 to 1945.

(c) Ter MEER's activities carried on through the instrumentality of Farben, and through his other positions included: (1) substantial participation in the creating and equipping of the Nazi war machine and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stock-piling of strategic war materials, retarding production in other countries (more particularly in the U.S.A.), and propaganda,



intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. Ter MEER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedom. Ter MEER knew this for several reasons:

(a) Ter MEER knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to Ter MEER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in Ter MEER's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi government, and the general measures of rearmament, the nature of the activities carried on by Ter MEER and the timing of such activities, establish that Ter MEER knew he was preparing for aggression.

(d) Specific instances, such as Ter MEER's meetings with leading Nazi officials at which the aims of the Nazi leaders were expressed, and Ter MEER's own statements and letters on various occasions, are sufficient in and of themselves to establish that Ter MEER had the required state of mind.

(e) Ter MEER's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to Ter MEER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including particularly the seizure of the Sudetenland on 1 October 1938 and Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, Ter MEER knew

that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant ter MEER.

(a) As a matter of law, even if the facts established that ter MEER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that ter MEER acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant ter MEER knowingly participated in plans to spoliage, and in spoliating, chemical industries in occupied countries. These activities of ter MEER were carried on through his position in Farben.

2. Ter MEER knew of, and bears a major responsibility for, the program of Farben to take over by force and compulsion chemical industries throughout Europe. Ter MEER played an especially active role in the plunder and spoliation of property in Poland and France including Alsace-Lorraine, and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant ter MEER.

(a) As a matter of law, even if the facts established that ter MEER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that ter MEER acted under duress or coercion in carrying out any of the activities specified above.

#### Count III

(Section A and C)

1. Ter MEER took the initiative in using force to bring foreign workers to Germany for use as slaves in the German war effort, particularly in Farben plants. Ter MEER knowingly participated in the use

in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. Ter MEER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of ter MEER were, to ter MEER's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

5. Ter MEER continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant ter MEER.

(a) As a matter of law, even if the facts established that ter MEER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that ter MEER acted under duress or coercion in carrying out any of the activities specified above.



Count III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.
2. Ter MEER participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.
3. Ter MEER knew that human beings in concentration camps were being exterminated by gassing.
4. Ter MEER either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

1. The foregoing activities were engaged in by the defendant ter MEER in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.
2. The defendant ter MEER, together with the defendants who were member of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.

I - CHRISTIAN SCHNEIDER

1. Charges in the Indictment: The defendant SCHNEIDER is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation, constituting War Crimes), Count III (Slave Labor, constituting War Crimes and Crimes against Humanity), Count IV (Membership in the SS, an organization declared to be criminal by the International Military Tribunal and Control Council Law No. 10), and Count V (Conspiracy to Commit Crimes against Peace). The defendant took the stand on his own behalf. (Tr. 7322, et seq.).

2. General nature of the evidence supporting these charges.

SCHNEIDER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, Schneider bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant SCHNEIDER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant SCHNEIDER sets forth certain selected highlights in the activities of the defendant SCHNEIDER and shows the general nature of the broad field of activity in which he was engaged during the period from 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.



3. SCHNEIDER'S Positions from 1933 to 1945: The positions which SCHNEIDER held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in prosecution exhibits 317 and 318 (see also testimony of SCHNEIDER on direct examination, Tr. 7322 and following). The following positions held by SCHNEIDER during these years are of special significance:

(a) SCHNEIDER was a member of the Vorstand from 1928 to 1945; a Deputy member until the end of 1937, when he was appointed a full Vorstand member.

(b) SCHNEIDER became a member of the Central Committee of Farben at the end of 1937.

(c) SCHNEIDER became a full member of the TEA at the end of 1937. While a Deputy member of the Vorstand, however, SCHNEIDER "participated in the meetings of the Working Committee and the Technical Committee".

(d) From 1933 to 1936, SCHNEIDER was deputy head of Louna works; in 1936, he became plant manager and business manager of Louna works.

(e) SCHNEIDER was Deputy to Krauch in Sparte I; when Krauch became attached to Goering's staff in 1936, SCHNEIDER took over the leadership of Sparte I; in May 1939, SCHNEIDER became head of Sparte I (because Krauch's activities for the Government were taking up too much of his time).

(f) At the end of 1937, SCHNEIDER became Chief of the Plant Leaders of Farben (Hauptbetriebsfuhrer), and simultaneously head of the Advisory Council of the Plant Leaders Conference.

(g) SCHNEIDER was a member of the S.S. from 1933 on; a member of the German Labor Front from 1934 on; and a member of the NSDAP from 1937 on.

(h) SCHNEIDER became a member of the Advisory Board of the Economic Group Chemical Industry in 1938.

(i) SCHNEIDER was deputy manager of the Ammonia Works Morsberg from 1933 to 1936; plant manager from 1936 to 1938; and



full manager from 1938 to 1945. He was a member of the Verwaltungsrat of the Stickstoffsyndikat in Berlin.

(j) SCHNEIDER became Chief Counter-Intelligence agent of the OKW-Abwehr in Farben in 1940. He was appointed Military Economy Leader in 1941.

4. Certain Specific Activities of SCHNEIDER During the Period 1933 to 1945.

To place the specific activities outlined below in fuller context with the progression of events in Hitler's Germany and in Farben, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual brief with the year-by-year narrative under "B - Carl Krauch", above. Since SCHNEIDER was Deputy to Krauch in Sparte I, and took over the leadership of Sparte I when Krauch became attached to Goering's staff in 1936, the section of the brief on the defendant Krauch is of special significance in the case of the defendant SCHNEIDER.

a. COUNT I - CRIMES AGAINST THE PEACE

(1) Most of the evidence which is referred to in the section of this brief on the defendant Buotefisch is relevant in connection with the activities of the defendant SCHNEIDER during the period in question. While SCHNEIDER was deputy head of Iona works from 1933 to 1936, and from then on the plant manager and business manager of Iona works, Buotefisch was technical chief of Iona works. While SCHNEIDER acted practically as head of Sparte I from 1936 on, Buotefisch was deputy chief from 1938 on. Accordingly, the evidence discussed in the brief on Buotefisch concerning the activities carried on through Sparte I, and the Iona works, and in the field of the development and production of synthetic oil, synthetic nitrogen, and synthetic methanol, should be considered in connection with the responsibility of the defendant SCHNEIDER. As a matter of convenience we decided to discuss certain portions of such evidence in the section "L - BUOTEFISCH", below.

(2) SCHNEIDER has testified that from the beginning he saw a number of good points about the Nazi Party program, while at the same time

allegedly opposing the other points. (Tr. 7324 and 7325). As early as 1933, he joined the SS (PEs 317, 318; Tr. 7325) and became a member of the DAF, the NSM, the NSKK, the NSFK, and various other Nazi organizations (Tr. 7325). Although he claimed that he opposed many measures of the Party, at the same time, he states "It was soon realized, however, that in view of the rapid development of the authoritative and uncompromising attitude of the Party, serious resistance to its measures would not only bring about personal disadvantages, but would also bring disadvantages for the plant, which was entrusted to us" (Tr. 7324). SCHNEIDER was present at meetings of the Working Committee when contributions to Nazi organizations and the Adolf Hitler Fund were announced, and as member of the Central Committee from the end of 1937 on, he bears a special responsibility for approving such contributions (PEs 77, 78, 79, and 80).

(3) The evidence contained in the individual brief on the defendant Bucofisch showing how the production of synthetic gasoline, and the production of synthetic nitrogen was considered in the light of preparations for war, beginning as early as 1933 and increasing in intensified degree during the succeeding years, is referred to here.

(4) In other sections of this Brief, (see particularly sections on defendants Krauch and Ter Meer) it is shown how "since 1934 conferences and discussions with various military officers and authorities in Berlin became more and more numerous and urgent" (PE 99). It was Krauch, SCHNEIDER'S chief in Sparte I, who set up the V/W in September 1935. (PE 101). The evidence cited in the brief on the defendant Krauch concerning the activities of the V/W and its relationship to Sparte I is referred to here. It was in the year 1935, when the V/W was set up, that regular conferences began taking place between the Louna works and the Wehrmacht concerning the development of important military products, preparations for war, and measures which would have to be taken at Louna in case of war (PE 258 and Part VI, "L - Bucofisch", below).

(5) In January 1935, the first oil conference was held at Ludwigshafen with SCHNEIDER among others present. The formation of Brabag among other things was discussed (PE 518). In June 1935, a conference was held between representatives of Farben, Army Ordnance, and the Reich Air Ministry concerning production of iso-octane for the Reich Air Ministry (PE 523). In the same month, a license agreement between Farben and Brabag was signed (PE 521). In October 1935, the Ammonia Werke Merseberg sent a letter to the Reich War Ministry regarding the installation of a bomb-proof gasoline storage tank (PE 747). In the same month, the Chief of the Economic Group Chemical Industry requested that various kinds of oil be exempted from the turn-over tax in the interest of "political economy and military policy" (PE 525). (For a further discussion of the exhibits mentioned in this paragraph, see Part VI, "I - Heinrich Buettelisch", below).

(6) In January 1936, Krauch announced the establishment of Section-A within the V/W for counter-intelligence matters. The announcement was addressed to SCHNEIDER at Leuna among others. It was noted in the announcement that counter-intelligence (Abwehr) agents had been appointed in Farben plants, and that Section-A was at the disposal of Farben agencies on counter-intelligence and security matters. (PE 145). In February 1936, at a meeting of the Hoechst Vorstand and Technical Directors, Lautenschlaeger submitted a list of products to be produced at Farben's Gerstehofen plant "in the event of war" (PE 191). The year 1936 was a crucial one in the field of synthetic oil production as in other fields. (See sections on Krauch and Buettelisch, Part VI, Sections B & L). At Goering's crucial meeting of 26 May 1936, emphasis was placed on the dependence of the Army and Navy on oil, and it was pointed out that the waging of war depended on the oil program. (PE 411; Tr. 5443, 5444). In July 1936, shortly after Krauch was put at Goering's disposal by Farben (and SCHNEIDER took over the leadership of Sparte I), Krauch called for a report from Farben on its contracts with the Reich, including specifically the Leuna contract during World War I (PE 679; Buettelisch brief). In September 1936, the Aviation gasoline contract with Ammonia Werke Merseberg was concluded (PE 528). In October 1936,



a conference on the oil program of the Government was held at the Farben Building in Berlin to discuss the requirements of the oil program in case of mobilization (PE 414; Buetevisch brief). In 1936, the question of mobilization for war and production in case of war was discussed continuously within Farben; preparations were made for the construction of stand-by plants for the production of concentrated nitric acid; map exercises and war games were conducted on a large scale; a large tetra-ethyl lead plant was built; gasoline was stockpiled; Sparto I discussed with the Military authorities the production of chlorine for Case A and an increase of phosgene production; and various other measures and preparations for war were taken up (See sections on Buetevisch and Krauch). In December 1936, Goering made his famous speech before the German industrialists in which he outlined the purpose of the Four Year Plan, stating in part "We are already on the threshold of mobilization, and we are already at war, all that is lacking is the actual shooting" (PE 421; see sections on Buetevisch and Krauch). In December 1936, a directive was issued through the V/W to all Farben plants which dealt with keeping secret the processes, patents, and know-how of the chemical industry (PE 144).

(7) In February 1937, Sparto I made a report to the TEA, listing the credits of Sparto I connected with the Four Year Plan. Reference was made to "plants which are working for rearmament and industrial air raid protection insofar as they are not included" in the plants under the Four Year Plan. Nitric acid is cited (PE 680; Buetevisch brief). In this same month, Dieckmann of the Sparto I office of the V/W, sent a letter to the Reich War Ministry with respect to certain military products, including Urea (a form of technical nitrogen). Reference was made in the letter to the stockpiling of Urea in a safety zone, rather than building new installations at suitable sites, all for the purpose of securing the desired "urea supply in case of war" (PE 231). In March 1937, the Economic Group Chemical Industry requested a reduction of taxes for the chemical industry, with particular reference to Farben, since "that firm in particular is especially charged with the tasks of the Four Year Plan" (PE 527). In this same month, the V/W sent a letter

to the Farben Works Combines and to the various Sparte concerning secrecy regulations in connection with the execution of Wehrmacht orders (PE 148), and a directive was circulated in that month, March 1937, by the V/W to Farben plants, dealing with counter-intelligence measures to be taken, which were necessary because of "increasing cooperation of various I. G. offices with parts of the Wehrmacht". It was recommended by Dieckmann, Chief representative of Sparte I in the V/W, that this directive should serve as a basis for a conference with the Military Economic Staff of the Reich War Ministry concerning fuel and lubrication, to be held in July 1937 (PE 144). In March 1937, a secret information letter was addressed to all Farben's Works Combines, DAG, and other Farben agencies on the "industrial mobilization tasks of the I. G. plants". It was stated that the V/W was engaged in working out mobilization schedules for individual Farben plants. (PE 195). In April 1937, Farben's Legal Department sent a letter to the TEA Bureau concerning the attempt of Farben to acquire tetra chlortitan in France. It was mentioned that "in the modern offensive and defensive war technique, tetra chlortitan has actually assumed an outstanding position". It was stated further that "the present political situation makes the problem of producing artificial clouds more important than ever" (PE 632). In July 1937, a secret conference was held between the Military Economic Staff, Army Ordnance, the Air Ministry officials, and Farben representatives. The conference stressed the necessity of keeping Farben processes for the production of fuels and air plane gasoline secret, except to the extent already known by foreigners, and authorized by the Wehrmacht. The conference also agreed that false impressions were to be given to contracting parties abroad as to the scale of the experiments being conducted by Farben (PE 974). In September 1937, Pleiger of the office for German Raw and Synthetic Materials, advised Farben through the V/W that "in consideration of the interest of the military policy, a nickle plant with a capacity of a minimum of 2,000 tons per year, is to be set up in Central Germany" (PE 683). In September 1937, the V/W sent a letter to all important Farben plants (copy to SCHNEIDER and copy to

Louna) concerning the mobilization planning tasks. It was indicated that mobilization tasks would be divided into two categories - problems relating to materials and problems relating to manpower. It was stated that the Ministry of Economics had requested an organizational schedule both for current production plans as well as proposals for all works in the event of mobilization (PE 197). In December 1937, a nitrogen conference was held at Louna. The increase in nitrogen production in 1937 as compared to 1936 was discussed. It was stated that the increase was made up of 10,000 tons of nitrogen for nitric acid and 7,000 tons for liquid ammonia (PE 127). In December 1937, Dieckmann, the representative of Sparte I in the V/W, submitted a production schedule of the Piesteritz works to the Reich War Ministry as a suggestion. Reference was made to the production of nitrogen of lime and highly concentrated nitric acid (PE 205). Other activities of Sparte I during 1937 are summarized in the section on Krauch.

(8) In February 1938, Dieckmann of the Sparte I office of the V/W, sent a letter to the Reich War Ministry, stating that "the best way to secure the Urea requirements for important military purposes is to keep stocks in a safe place". Dieckmann requested the Reich War Ministry to "inform us as to which of the above mentioned methods for securing the Urea supply is to be followed up in the case of war" (PE 231). On 11 March 1938, the Commercial Committee held the meeting at which word was received of the coming invasion of Austria. This was the meeting at which the defendant Haefliger stated that the march into Austria "to us was already an established fact", and that those present at the meeting were uncertain whether "there would not also take place" the "short thrust" into Czechoslovakia, with all the international implications which would be kindled by it" (PE 893). By April 1938, Krauch's office had worked out a program for assuring mobilization provisioning by stockpiling (PE 718). In May 1938, a conference was held at the Louna plant to discuss problems relating to mobilization tasks (PE 214; see section on Buefisch). In July 1938, Farben concluded a contract with WIFO concerning the construction of a plant for the production of tetra ethyl lead (PE 538; Tr. 8686). In July 1938,



Farben negotiated with the Ethyl Lead Export Corporation for the "borrowing" of 500 tons of tetra ethyl lead (PEs 732, 733; Tr. 8712). On 1 September 1938, Dieckmann of the Sparte I office of the V/W wrote to Ungewitter that "at our suggestion a nitrogen syndicate to safeguard the Urea supply is at present stockpiling large quantities of Urea with the main consumers as well as with I. G. depots. The size of the stockpiles should insure sufficient supplies for the technical requirements for six to ten months. The action should be finished by the end of next week". Copy of the letter was sent to the main office of Sparte I (PE 231). On 21 September 1938, the Vorstand was advised by the Commercial Committee of the details of the chemical plant in Czechoslovakia (PE 1043). On 22 September 1938, the Central Committee of Farben placed 100,000 Reichsmarks at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps, formed to create disturbances on the Czech border. SCHNIDER was a member of the Central Committee at the time and was informed (PE 834). In September Farben plants were advised through the V/W concerning problems connected with deliveries in case of mobilization because of transportation bottlenecks (PE 224; Baetefisch brief). For other activities of Farben immediately preceding the invasion of the Sudetenland on 1 October 1938 see sections on Krauch and Ter Meer.

(9) In January 1939, the Office of Military Economy in a report on Krauch's oil program stated that mineral oil was just as important for warfare as aircraft, tanks, ships, arms and ammunition (PE 537); and in a report to Goering on the aims and demands of the mineral oil project in the same month the necessity was pointed out for giving the mineral oil expansion top priority in the rearmament program (PE 538). On 15 March 1939 (the day of the invasion of Bohemia and Moravia), a conference on mobilization managers of the principal Farben plants was held at which they discussed common mobilization problems and mobilization problems relating to Farben plants in particular, air raid precautionary measures; transportation requirements; security questions; preliminary work for turnover from peace to war production, including mobilization orders, changes in shifts, transportation problems,

employment of women in case of mobilization, etc. (PE 239). In May 1939, it was announced at a meeting of the TEA Bureau that SCHNEIDER would act as Deputy for Krauch as head of Sparte I since Krauch's activities in the Reich Office for Economic Development took up so much of his time (PE 456). In June 1939, the V/W sent a letter to von Knieriem with a copy to Sparte I, inclosing a report on research and development work of Farben done on Wehrmacht orders or in conjunction with the Wehrmacht (PE 166). In July 1939, Dickmann, in the Sparte I Office of the V/W, wrote to the Reich Ministry of Economics concerning the removal of important military products from Ludwigshafen and Oppau to another place. Reference was made to supplies of urea "in case of war" and to the stockpiling of urea and other military products. The operation of standby plants was also discussed. A copy of the letter was sent to the main office of Sparte I (PE 231; see also PE 233). In the same month the V/W sent a letter to the various Farben plants including the Leuna Works (with a copy to the Office of Sparte I) concerning the supplying of the armament industry with fuel in case of mobilization. The letter is dated 12 July and it is requested that because of the urgency of the matter an answer should be given not later than 20 July (PE 233). And in July 1939 the V/W sent a secret circular letter to Farben plants concerning the supplying of food in the "A-Fall". Detailed information was requested concerning the number of workers who in the "A-Fall" would be fed by the Works during one whole day, to be fed one meal, would be evacuated from outlying districts; and concerning workers in shadow factories who would have to be fed, etc. This secret circular letter concluded "we were again reminded that in view of the difficulties expected to arise in transportation and procurement, it was urgently desired that a suitable stock of provisions for three to four weeks should be held, taking into consideration the extent of personnel in the mob fall" (PE 741). In July 1939, Dickmann sent a letter to the Reich Air Ministry concerning the trip of certain Farben representatives to the United States in connection with the exchange of information with American oil firms. It was indicated that the persons sent to

the U.S. would attempt to get information on various processes and at the same time to "keep silence" about fuel and lubricant matters requiring secrecy (PE 972; see Bueckfisch brief). Reference is made at this point to the summary of evidence on the defendant Ter Meer and Bueckfisch with respect to the program of Farben designed to obtain as much information as possible from foreign countries and at the same time to give nothing in return in order that Germany's military might vis-a-vis such foreign countries would thereby be strengthened. In August 1939, the Vorstand approved a contribution of 50 thousand Reichmarks for the mobilization of the National Socialists Air Corps (PE 1047). On 28 August 1939, the V/W notified Farben plants that its offices could be reached by telephone or teletype on a 24-hour basis (PE 262). The defendant Bueckfisch has stated that on 28 or 29 August 1939, SCHNEIDER, as Plant Leader of Louisa, called a meeting of Department Chiefs and informed them about the order for mobilization. SCHNEIDER closed the discussion with these words "This is War" (PE 261, Tr. 8713, 8715; see SCHNEIDER attempt at explanation, Tr. 7372, 7373). In confirmation of SCHNEIDER'S understanding on 28 or 29 August that an order for mobilization meant war, when the war with Great Britain and France broke out on 3 September 1939, Farben needed only a simple telegram from the V/W requesting "all I.G. plants to switch at once to the production outlined in the mobilization program" (PE 266). Shortly after the outbreak of war in September 1939, conferences were held at the Hague between representatives of Farben and Standard Oil concerning the transfer of patents relating to synthetic oil, buna, etc. for the purpose of protecting them from seizure by enemy countries and from seizure by the U.S. in the event of war between Germany and the U.S. (PEs 973, 975, 977, 978, 980; Tr. 8737).

(10) Throughout this period, while Germany was preparing for aggression, SCHNEIDER played a leading role in maintaining and promoting cooperation between Farben and the Nazi Government. SCHNEIDER was an adviser to Krauch, and as the leader of Sparte I during the time that Krauch was with the Government, he maintained constant contact with Krauch's office; was one of the Farben officials who maintained contact



with the various committees of the Economic Group Chemical Industry; as plant leader he maintained contact with the German Labor Front; as chief Abwehr Beauftragter he maintained contact with the OKW Abwehr, and with the Security Service; as Sparte I leader he maintained contact with the Ministry for Armament and Munitions (later the Armament Ministry); and was a member of the S.S. (See PE 377; PE 512). Not only did SCHNEIDER play a dominant role in fields such as synthetic gasoline, synthetic nitrogen, and synthetic methanol, but as a regular participant in the meetings of the TEA and the Vorstand from 1933 on, he was kept informed of, and authorized or approved all major activities of Farben. In speaking of his activities as leader of Sparte I, the defendant SCHNEIDER offered a variety of explanations. They ranged from the allegation that he was not engaged in preparing Germany for war, to the allegation that, even though he was participating in rearming Germany, this was not for aggressive purposes, and anyway he was forced to do what he did. Thus, in testifying concerning the collaboration of Farben with the WIFO in connection with the establishment of stand-by plants for the production of highly concentrated nitric acid and tolulol, the defendant SCHNEIDER testified as follows: (Tr. 7348):

"A refusal of Farben to cooperate under the circumstances, would have been impossible. The operation of concentrated nitric acid plants ordered by the OKW was beyond peace time needs, without a doubt. It was a measure so that in the event of war the Wehrmacht would be protected from a scarcity of this important product. This precaution was taken on the basis of World War I experience. WIFO came to Farben because it had no other choice. Farben alone in Germany had enough experience in the production of highly concentrated nitric acid. If Farben, for this reason alone could not refuse to collaborate with WIFO, there was another reason too of economic considerations. The prices for fertilizer nitrogen had been reduced repeatedly because of the pressure on the part of agriculture, while technical nitrogen, which includes nitric acid, involved a suitable profit. Farben had to prevent the production of these nitric acid plants, which could have been built even without Farben with the aid of compulsory licenses - Farben had to prevent these getting into other hands. This would have influenced the price of all of technical nitrogen. From the production of the concentrated nitric acid plants before the war one cannot infer any intention of a war of aggression. I, at least, always regarded it within framework of the general rearmament of the newly constituted Wehrmacht. Similar things were happening in other countries too".

### The War Years

(11) After 1 September 1939, SCHNEIDER continued to play a leading role in the German war effort, from his participation in a major way in the aggressive wars being waged, knowing that their purpose was conquest. His activities were indispensable to the waging of these aggressive wars and the preparation for new acts of aggression. In addition to his activities in creating and equipping the Nazi military machine for aggressive war, in what might be called the field of production, SCHNEIDER also participated in the initiation, preparation, and waging of aggressive wars, through his participation in the spoliation activities charged in Count II of the indictment, and in the Slave Labor activities set forth in Count II of the indictment.

#### b. COUNT II - PLUNDER AND SPOILIATION

(12) Defendant SCHNEIDER bears a major responsibility for, know of, and approved the program of Farben to take over chemical industries throughout Europe.

(13) In the case of Poland, he attended the Vorstand meeting of 8 November 1939 where Farben's concentrated efforts to participate in the distribution of Polish property were being discussed (PE 2120).

(14) Soviet-Russia: As a member of the Vorstand, defendant SCHNEIDER received de Haas's report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (PE 1175).

(15) In the case of Norway, he attended the 24th meeting of the Farben Vorstand on 5 February 1941 where defendant Haefliger and Moschel reported on the far-reaching plans to use the Norwegian capacities for producing light metal for the German Air Force (PE 1193).

(16) Alsace-Lorraine: SCHNEIDER was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine; Strasbourg, Werlebach and Diedenhofen (PE 2192).

(17) Francolor: As a member of the Farben Vorstand, he received the minutes of Farben's first meeting with the French industrialists in Wiesbaden on 21/22 November 1940 (PE 2195). He also attended the Vorstand meeting of 10 July 1941 where von Schnitzler "gave a report on the negotiations which had been successfully concluded with respect to Francolor" (PE 1177). As a member of Farben's TKA (Technical Committee) from 1938 to 1945 (PE 317), he also attended the TKA meeting of 17 December 1940 where ter Meer, speaking of Francolor, reported that:

"an agreement was reached with the French dyestuff group whereby we are assured of decisive influence on French dyestuff production" (PE 345).

(18) Rhone-Poulenc: SCHNEIDER also attended the Vorstand meeting of 12 December 1940 where defendant Mann reported on the license agreement with Rhone-Poulenc which was contemplated (and later on concluded) for a 50 years' period, and where Mann also stated:

"In addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital" (PE 1270).

The Vorstand members present, among them defendant SCHNEIDER, "agreed to this line of action" (PE 1270).

c. COUNT III - SLAVERY AND MASS MURDER

(19) Defendant SCHNEIDER was the Chief Plant Leader of I.G. Farben from 1938 until 1945. In this job he was the delegate of the Farben Vorstand, as under the law regulating national labor the Vorstand was the chief plant leader of Farben and as such responsible for the care of all social matters (PE 1338). SCHNEIDER has stated that as chief plant leader he reported to the Farben Vorstand regularly and that he could not remember a single instance in which the Vorstand did not agree with his decisions (Ibid).



(20) SCHNEIDER admits that he knew that the work done by Eastern and to some extent by Western workers had to be regarded as forced labor. He also knew that in occupied Eastern territories people were collected in the streets and deported to Germany in bands, and that Western workers after the expiry of their contracts, regardless of their own wishes, had to remain in Germany to work; also that Western workers who went home in spite of this were brought back to work in Germany by force (Ibid).

(21) The statistical breakdown of workers into such classifications as Germans, different foreign nationalities, prisoners of war, concentration camp inmates, etc., was sent monthly by each plant leader of Farben to SCHNEIDER'S "Buero Bertrams". These employment figures were consolidated by "Buero Bertrams" and submitted to Dr. Ernst Struss, director of the TLA. Struss used these figures for statistics and diagrams which were brought to the attention of the TLA in order to show the members thereof the position and trend of the workers in the whole of Farben (Ibid and FEs 1557, 1558, 1559, 1560, and 1318).

(22) SCHNEIDER stated that Farben sent representatives into occupied territories such as Czechoslovakia, Italy and Jugoslavia to assist and speed up the procurement of labor for the chemical industry in general and Farben in particular. Such Farben people travelled abroad as representatives of Farben or as officers on the staff of Goebbel's (Kreuch). Examinations of the chemical industry, for example, in Italy were carried out by these representatives to find out how many workers could be taken away and employed in the German chemical industry. These examinations resulted in selections being made and the deportation to Germany of those selected (FE 1326). SCHNEIDER said that he felt responsible for a proposal that the chemical industry in France and Belgium be combed out and that the skilled workers released thereby be employed in the German chemical industry (Ibid and FE 1326). He denied responsibility for this on direct examination (Tr. 7407).

(23) Defendant SCHNEIDER has stated that foreign children were employed by Farben and that he did not make any proposals, issue directives, or approve credits for the erection of schools for foreign children (PE 1328).

(24) SCHNEIDER knew that prisoners of war were employed by Farben in either direct or indirect armament industry. He was reportedly informed by defendant Krauch and other plant leaders that the rate of sickness of foreign workers was much higher than that of German workers in several plants of the I.G. (Ibid). Defendant Krauch has corroborated this statement in that he (Krauch) discussed such matters with defendant SCHNEIDER as well as defendant Schnitz (PE 1332).

(25) SCHNEIDER said (PE 1328) that concentration camp inmates were employed at Auschwitz, Heydebreck, Wolfen, Bitterfeld and Leuna and that the cost programs for the billating, etc. of these inmates, like all other applications for credit for expenses in the social field, needed his authorization. On examination he corrected the places where concentration camp inmates were employed to include only Auschwitz, Wolfen and Munich (Tr. 7410). He has also stated that irregularities at work, laziness, etc. on the part of foreign workers were at first punished by the plant leaders by reprimand or fine and if this was not sufficient, the Gestapo was informed. Farben physically participated in the deportation of foreign workers to Germany by providing escorts from its employment office and guards from its plant security police either to the camp of the competent labor exchange or to the occupied territories from where the workers were coming (PEs 1328 and 1333).

(26) As plant leader of Leuna SCHNEIDER frequently signed letters reporting foreign workers to the Gestapo for laziness, etc. Such reports resulted in many cases in internment in a concentration camp (PE 1333). In 1941 defendant SCHNEIDER provided huts on the Leuna plant grounds for an SS indoctrination camp. He said this was done reluctantly and upon the demand of the chief of the Gestapo from Halle (Ibid). In this same affidavit SCHNEIDER stated that the

German Labor Front tried hard to get the administration, guarding, etc. of the foreign camps under its management, but he refused. Although SCHNEIDER was responsible for the well being and care of foreign workers, he visited only the Eastern workers' camp at Louna from 1939 until 1945 about three times and did not recall having ever visited a camp at Louna where people of other nationalities were housed (Ibid). Of interest in this connection is defendant Bueckfisch's statement that SCHNEIDER paid five to six visits annually to the camps of the foreign workers (PE 1334). SCHNEIDER recalled that a camp leader who had beaten an Eastern worker was warned and transferred by way of punishment (PE 1333).

(27) SCHNEIDER was chief of the so-called Enterprise Advisory Council. The purpose of the Enterprise Advisory Council was to give an opportunity to the members, that is the 10 members selected from the confidential councils of the various plants, to confer with SCHNEIDER as the chief plant leader on social problems which were of interest to all plants and to find a solution thereto (PE 1329). The meetings of the Enterprise Advisory Council were preceded by a so-called plant leaders conference in which were discussed all the subjects on the agenda of the Enterprise Advisory Council meeting. Regular participants in the plant leaders conferences and Enterprise Advisory Council meetings were defendants Wurster, Kuchno, von Schnitzler, Lautenschlaeger, Ambros, Buerger, Gajewski, Ilgner, and sometimes ter Meer (Ibid). Defendant Ilgner has said that the meetings of the plant leaders took place to advise SCHNEIDER for his meetings with representatives of the Labor Front. He further said that SCHNEIDER was Farben's main liaison with the German Labor Front. (PE 512).

(28) SCHNEIDER on 6 November 1942 wrote to defendants von Schnitzler and Mann concerning the suggestion in the last Vorstand meeting to secure French workers for Farben from those firms in which Farben had interests. In this letter he mentions that he will find out if anything can be accomplished within the framework of the Sauckel Action (PE 1327).



(29) A concrete example of the manner in which SCHNEIDER and other Vorstand members interested themselves and participated in labor discussions is shown by the minutes of an Enterprise Advisory Council meeting as early as 11 March 1941. In this meeting SCHNEIDER reported that 18,000 drafted Farben workers were replaced by women and 12,366 foreigners, of which 2,162 were prisoners of war. All plant leaders were present with the exception of Buergin, von Schnitzler, Brueggemann, and Warster (PE 1350).

(30) Defendant SCHNEIDER exercised initiative in inaugurating disciplinary measures for those workers who left. Workers, including foreigners, were disciplined by being put into a special Kommando supervised by an especially energetic foreman. Such workers under discipline were housed in a special camp which was far away from any communication (PE 1901).

(31) For SCHNEIDER'S responsibility for conditions at I. G. Auschwitz, see Part I and Part IV of this brief.

#### SCHNEIDER'S DEFENSE

(32) In his defense SCHNEIDER points up by way of affidavits of his employees the manner in which he assisted two or three Farben employees (SCHNEIDER Exh. 2, 3 and 4; Tr. 7328, 7330). It is interesting to contrast this with the number of foreign workers enslaved by Farben. For example, by 1 October 1944 about 50% of Farben's approximately 200,000 workers were foreign workers, prisoners of war, concentration camp inmates, etc. (PE 1558). That all of these classifications of workers with the exception of a very few were slave workers is borne out by the evidence (SCHNEIDER Affidavit, PE 1328; Buettelisch Affidavit, PE 1334; Strass Affidavit, PE 1318).

(33) The little or no credibility that can be attached to the statements of the SCHNEIDER affidants is indicated in the case of Dr. Hans Sauer, formerly of Louisa (SCHNEIDER Exh. 4). Sauer stated;

"From time to time, too, Herr Schneider personally visited the camps where the workers resided which were of necessity always on the increase, when he went

into the rooms and questioned camp inmates and again and again exerted himself in favor of orderly treatment of the male and female workers of all nationalities" (Tr. 7330).

SCHNEIDER, in connection with such camp visits, has said that between 1939 and 1945 he visited only one camp for Eastern workers at Louna about three times and could not recall having ever visited any other foreign workers' camp (PE 1333).

(34) Some effort was made to cloud the issue of SCHNEIDER'S responsibility for the welfare of prisoners of war, concentration camp inmates and other workers who were not directly contracted by Forbon. This was set forth on the basis that legally such classifications of workers did not come within the Gefolgschaft (staff or followership) (Tr. 7378). It must be borne in mind, however, that SCHNEIDER stated unequivocally in his own affidavit that he was responsible for the welfare of such workers (PE 1328). It is significant, however, that later on in referring to this matter, SCHNEIDER'S counsel stated:

"I do not want to say that the plant leader had no responsibility over these controlled workers. . . he, of course, had the same general duties as were existing everywhere without being able to apply special National Socialist law, however" (Tr. 7379).

(35) Another affiant for Dr. SCHNEIDER, one Dr. Polster of Louna, recounted in his affidavit SCHNEIDER'S opposition to the employment of foreign workers at Louna (SCHNEIDER Exh 41; Tr. 7387). Contrast this with SCHNEIDER'S own statement concerning sending representatives into occupied territories for the express purpose of recruiting foreign workers (PE 1333).

(36) In his testimony SCHNEIDER stated that he expressed objections to labor authorities for labor commitment. He had previously stated that the reason for his objection or misgivings was that the employment of experienced German workers or at least voluntary foreign workers was preferable for many reasons (Tr. 7399). Dr. Walter Stothfang, former Ministerial Councillor in the Reich Labor Ministry and a secretary to Fritz Sauckel, when on the witness stand

was asked by a member of the Tribunal:

"Now, in actual practice, would it have been possible for an employer to say, 'We do not want foreign workers or prisoners of war', would that have been possible?"

To this Stothfang answered:

"That possibility did exist certainly. The employer was not obligated to employ foreigners or prisoners of war" (Tr. 3738; PE 1310).

(37) SCHNEIDER, in commenting upon his affidavit (PE 1328), stated in respect to paragraph 8 thereof:

"The phrase 'all gentlemen of Farben had knowledge of the matters mentioned in paragraph 7' (i.e., forced aspect of foreign labor) is to be understood to mean those gentlemen who had directly to do with the employment of workers" (Tr. 7405).

In his affidavit he said that he supposed all gentlemen of Farben had such knowledge because "these things were common knowledge" (PE 1328, our emphasis). Affiant Struss said:

"Everybody in Germany knew it (forceful employment of foreigners in Germany) since the capture of Kiev (November 1941)" (PE 1318).

(38) When asked on direct examination when he heard about compulsion exerted in the employment of foreign workers, SCHNEIDER stated that it was probably in 1942 with the compulsory recruitment of Russians (Tr. 7400). On cross examination SCHNEIDER admitted that he may have heard about the decrees introducing compulsory labor in Poland in October 1939 and said that he assumed Farben started employing Polish workers in 1940 (Tr. 7468, 7469). Documentary evidence was introduced showing that Farben employed transports of Polish female workers at least as early as 18 June 1940 (PE 1900; Tr. 7469). Farben also applied for Polish male and female workers as early as 14 May 1940 (PE 1899; Tr. 7469). SCHNEIDER also admitted on cross examination that Farben's employment of Eastern workers (Russians) might have been as early as 1941 (Tr. 7471, 7472).

(39) SCHNEIDER'S and Farben's initiative in connection with the procurement of foreign workers is irrefutably shown by SCHNEIDER'S testimony on cross examination wherein he stated that Farben sent



representatives abroad to recruit from 1939 until 1944 (Tr. 7485, 7486).

d. COUNT IV - MEMBERSHIP IN A CRIMINAL ORGANIZATION

(40) Under Count IV of the indictment the defendant SCHMIDDER has been charged with membership in the SS pursuant to Article II, Par. 1 (d) of Control Council Law No. 10.

(41) The defendant admitted his membership in the SS by stating that he was a "supporting member of the SS" (PE 317). The I.M.F. judgment does not differentiate between "supporting" members and other members of the SS, nor does it exclude supporting members from the criminal categories of SS-membership (see discussion of Count IV, Part VI, "L - Buefisch, below).

(42) The defendant continued to be a supporting member of the SS throughout the years from 1933 until the end of the war (PE 317), knowing then of the criminal activities committed by the SS, including the forceful evacuation by the SS of thousands of Polish families, and the enslavement, mistreatment, and murder of inmates at Auschwitz. In his own affidavit (PE 1418) he states:

"In a meeting of the Technical Committee in 1940/41.... the evacuation (Aussiedlung) of the local Polish population, which was carried out by the SS, was discussed. The Vorstand did not raise any objection to the compulsory evacuation of the Polish population, nor against the collaboration with the SS. I am certain that, in 1941, perhaps already in 1940, I was informed of the gassing, but that I do not remember anyone who told me of it or with which gentlemen of the I.G. I discussed the matter. ....

(43) In his capacity as Chief Plant Leader and Chief Counter Intelligence Agent for all I.G. Farben, the defendant was responsible for the maintaining of restrictions concerning foreign workers. Moreover, as Chief Counter Intelligence Agent the defendant was under the jurisdiction of and registered with the Reich Security Main Office of the SS, the chief of which was Heydrich (PE 163; Tr. 7450, 7505; see also discussion in Part VI, "W - von de Heyde", below).

e. COUNT V - CONSPIRACY

(44) The comments made in the individual brief on the defendant KRAUSE, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages

41-42, are also applicable to the defendant SCHNEIDER.

5. Proposed Findings of Fact with Respect to the Guilt of Christian SCHNEIDER.

The evidence has established beyond a reasonable doubt, the guilt of the defendant Christian SCHNEIDER on the charges contained in Counts I, II, III, IV, and V of the Indictment filed in Case VI. The guilt of the defendant SCHNEIDER under each of these Counts is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of SCHNEIDER, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) SCHNEIDER'S activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1933 to 1945; as a member of the Central Committee from 1937 to 1945; as Deputy leader of Sparte I from 1933 to 1936, as actual leader under Krauch (after Krauch joined Goering's staff) from 1936 to 1939, and as Chief of Sparte I from May 1939 to 1945; as Deputy head of Leuna Works from 1933 to 1936; as plant manager of Leuna from 1936 to 1945; as Chief of the plant leaders Farben from 1937 to 1945; and as Head of the Advisory Council of the Plant Leaders Conferences.

(b) SCHNEIDER'S activities in other positions, including his activities as member of the Advisory Board of the Economic Group Chemical Industry from 1938 to 1945, as Chief Counter Intelligence Agent of the OKW-Abwehr from 1940 to 1945.

(c) SCHNEIDER'S activities carried on through the instrumentality of Farben, and through his other positions included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis

other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. SCHNEIDER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. SCHNEIDER knew this for a number of reasons:

(a) SCHNEIDER knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to SCHNEIDER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in SCHNEIDER'S position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by SCHNEIDER and the timing of such activities, established that SCHNEIDER knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by SCHNEIDER at which the aims of the Nazi leaders were expressed, and SCHNEIDER'S own statements on various occasions, are sufficient in and of themselves to establish that SCHNEIDER had the required state of mind.

(e) SCHNEIDER'S state of mind became more definite with each passing year. For some time prior to 12 March 1938, the



invasion of Austria was an established fact to SCHNEIDER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, SCHNEIDER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant SCHNEIDER.

(a) As a matter of law, even if the facts established that SCHNEIDER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that SCHNEIDER acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT II

1. The defendant SCHNEIDER knowingly participated in plans to spoliato, and in spoliating the chemical industries of occupied countries.

2. SCHNEIDER bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe, particularly in France (including Alsace-Lorraine), Poland, Norway and the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant SCHNEIDER.

(a) As a matter of law, even if the facts established that SCHNEIDER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that SCHNEIDER acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Sections A and C)

1. SCHNEIDER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. SCHNEIDER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of SCHNEIDER were, to SCHNEIDER'S knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. SCHNEIDER continued to take the initiative to obtain such foreign workers, prisoners of war, and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant SCHNEIDER.

(a) As a matter of law, even if the facts established that SCHNEIDER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that SCHNEIDER acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.
2. SCHNEIDER participated in these crimes, through Forben and through Bogesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.
3. SCHNEIDER knew that human beings in concentration camps were being exterminated by gassing.
4. SCHNEIDER either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count IV

1. SCHNEIDER was a member of the SS from 1933 to 1945. He knew of the criminal activities of the SS, including the forcible evacuation by the SS of thousands of Polish families and the enslavement, mistreatment and murder of inmates at Auschwitz.

COUNT V

1. The foregoing activities were engaged in by the defendant SCHNEIDER in collaboration with the defendants who were members of the Vorstand of Forben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.
2. The defendant SCHNEIDER, together with the defendants who were members of the Vorstand of Forben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.



FINAL BRIEF, PROSECUTION (English)  
PART II, SECTIONS 3-N

1. Charges in the Indictment. The defendant AMEROS is indicted under Count One (Crimes against Peace), Count Two (plunder and spoliation constituting war crimes), Count Three (slave labor constituting war crimes crimes and crimes against humanity), and Count Five (conspiracy to commit crimes against peace).

2. General Nature of the Evidence Supporting these Charges. AMEROS bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, AMEROS bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant AMEROS are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant AMEROS sets forth certain selected highlights in the activities of the defendant AMEROS and shows the general nature of the broad field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. AMEROS Positions from 1933 to 1945. The positions held by the defendant AMEROS in the financial, industrial, economic and political life of Germany during the period 1933 to 1945, are set forth in some



detail in FE 278, 279, and 1614. AMBROS became a full member of the Vorstand of Farben on 1 January 1938 (Tr. 7785). He also became a member of the TEA at the same time. AMBROS was Chief of the Organic section at Ludwigshafen from 1938 on; Plant Leader at Schkopau from 1936 on; Manager at Heuls from 1938 on; Manager at I.G. Auschwitz from 1941 on; and manager at a number of Farben plants. AMBROS was Manager of Anorgana from 1941 on, and Manager of Luranil from 1940 on. He was a member of the Aufsichtsrat of Fuerstengrube. His special field of activity within Farben was on the technical side dealing with the production of intermediate products essential for gunpowder, explosives, and chemical warfare agents (Tr. 8087 and 8102). In the synthetic rubber field he was (next to the defendant ter MEER), the leading technical man in the planning and execution of the construction and production program. In the field of chemical warfare agents, he was the chief technical man in Farben who participated in the planning and execution of the construction and production program.<sup>1</sup>

He was a member of the Nazi Party since 1938 and in 1941 became a Military Economy Leader. He received various decorations for his work in connection with the war, among them being the Meritorious War Service Cross, the Knight's Cross of the Meritorious War Service Cross, and the Todt Pin (FE 278, NI-8005). In the Economic Group Chemical Industry, he was the chief of the sub-section on textile accessories and the head of the Production Committee for Carbide Chemistry, Methanol, and

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<sup>1</sup> AMBROS, on the witness stand, stated: "Within the circle of the Vorstand of Farben, I represented a certain sector of our sphere of work. I, as a technical expert, represented the Buna field, the field of intermediate products, the field of plastics, the acetylene and ethylene industry, and all the various developments, large and small as they expressed themselves in the construction of approximately 12 plants and in the expansion of our field of work as they were treated in a number of special commissions, the management of which I was entrusted with in the I.G. Farben; for instance, the Zetke, the commission dealing with intermediate products; Commission 'K', that is the rubber-plastic commission which concerned itself with these modern fields; the Waro, the agent for raw material products; and small commissions like the analytical commission and many others which I can't remember now" (Tr. 7782).



Charcoal. He was also head of the Special Committee C in the Ministry of Armament and Munitions.

4. Certain Specific Activities of AMBROS During the Period 1933 to 1945. To place the specific activities of AMBROS which are outlined below in fuller context with the progression of events in Hitler's Germany and in Farben during the Nazi regime, the Tribunal is requested to frequently "cross-reference" its study of this individual brief with certain other parts of this Final Brief. Part VI, "B - CARL KRAUCH" gives the most thorough year-by-year development of Germany's war machine related closely with political developments. Part VI, "H - FRITZ TER MEER", should be particularly useful in studying the significance of the activities of AMBROS, since AMBROS was a great mainstay in ter MEER's Sparte II. Moreover, the activities of AMBROS must be related to those of WURSTER, outlined in Part VI, "T - KARL WURSTER", for the entire Ludwigshafen/Oppau organization ran as a closely knit plant combine, with Vorstand members AMBROS, Mueller-Gunradi, and WURSTER sharing management responsibilities. Minutes of the directors conferences at Ludwigshafen/Oppau and the cross examination of WURSTER (Tr. 11072-11119) show that the management of this "combine" greatly overlapped. For instance, there was not even a geographical division between the organic and inorganic sub-divisions of the plant. The cross-relation in processing the various intermediate products, in personnel matters, in transportation, in bookkeeping, etc., make unreal any disassociation of the activities of the Vorstand members at Ludwigshafen/Oppau.

a. COUNT I - CRIMES AGAINST THE PEACE

(1) We will not repeat in this section of the brief, many of the activities carried on through Farben in preparation for aggression beginning in 1933, such as air raid precautionary measures, "war games", mobilization measures, financial contributions to the Nazi Party and Nazi party organizations, etc. AMBROS was one of those who worked especially close with military leaders, Farben's V/W, etc., in preparations for war. As early as 1936, AMBROS directed the Vermittlungsstelle

W to set up a special procedure to assure the secrecy of correspondence dealing with chemical warfare agents (PEs 1920 and 159). He, himself, at that time designated his dealings at Ludwigshafen and Amendorf in the field of intermediate products as "military confidential" (PE 1920; see also PE 144). He had particular knowledge of the dealings which Farben had with the Wehrmacht in connection with development and research work and the role played by the Vermittlungsstelle W in connection therewith (PE 166).

(2) In January 1935, the defendant AMBROS was appointed the Farben official in charge of the field of glycerin and its substitutes (PE 1917; Tr. 8088). This was after discussions had been had with Army Ordnance (about which KRAUCH and ter MEER had been informed), dealing with production of synthetic glycerin (PE 1917). Shortly thereafter, in September 1935, Dr. Zahn of Army Ordnance reached a tentative agreement with Farben as to the work to be undertaken by it in the production of diglycol (a substitute for nitroglycerin). The note of that discussion states:

"In collaboration with Ludwigshafen (where AMBROS was in charge of the Organics Department) on the one hand, and the Wassag<sup>1</sup> (Westphaelisch-Anhaltische Sprengstoff A.G.) on the other hand, we should carry through the research work planned in connection with diglycol..." (PE 109).

In December 1935, Farben was informed by Dynamit A.G. that it was "impatiently" awaiting the results of the experiments for the production of synthetic glycerin as it was to be used for the production of high

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<sup>1</sup> As early as 1935, the defendants ter MEER and AMBROS knew of the activities of WASAG. The participation of Farben in the production of explosives and gunpowder through Dynamit A.G. is discussed in more detail in the GAJEWSKI brief.

explosives (FE 111) <sup>1</sup>.

(3) In November 1936, Farben informed Army Ordnance Office of the fact that the production capacity of diglycol at Ludwigshafen was 350 tons per month (FE 114) <sup>2</sup>. Discussion relating to increased production of phosgene and acetophenon and stabilizers also took place then. While this exhibit does not show the defendant AMEROS present, it covers the field in which he was particularly involved and subsequent documents indicate that he was informed of these matters, for AMEROS was the specially appointed representative of Farben to deal with these matters. In December 1936, the defendant AMEROS informed Ter MEER that he had designated Dr. Wittwer as his liaison man for the Raw Materials Office, and that he (AMEROS) had "undertaken the job of drafting a manufacturing plan for the production of Lost and its preliminary products..." Instead of storing the preliminary products, AMEROS recommended the construction of "A-plants" (FE 1918). Dr. Wittwer, as liaison man in the Raw Materials Office, was charged with the duty of "collecting all the data about the technical status of the processes (for producing Lost) and to make recommendations relating to them and to deal with the raw material questions." Wittwer, representing AMEROS, was informed on

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- <sup>1</sup> For a discussion of the nature of diglycol as a substitute for nitroglycerin in the production of gunpowder and explosives, see testimony of Elias (Tr. 1372-1374). The importance of Farben's new process for the manufacture of diglycol is shown by the fact that in 1937 diglycol replaced nitroglycerin as the basis for producing explosives (FE 1919, NI-14071, Tr. 8096). For a discussion of the technical intermediate products necessary to the production of gunpowder, explosives, and chemical warfare agents, see FE 591, NI-6239, the chart of the Reich Office of Economic Development showing the interlocking of raw materials in the production of powder, explosives, and preliminary products.
- <sup>2</sup> AMEROS, on direct examination (Tr. 7773), referred to the fact that he participated in construction of the Zweckel plant, "a little ethyl oxide plant". As to that plant, Army Ordnance informed Farben that it was to be used in case of war (FE 192, NI-7475). We shall refer again under the discussion of chemical warfare agents to the fact that diglycol, in addition to being an important intermediate for the production of gunpowder and explosives, was also an indispensable intermediate product for the production of poison gas and that the increase in production of diglycol took into account its use as an intermediate for poison gas.



17 December 1936 of the fact that the Wolfen diglycol plant was to start operations on March 1937, in order to alleviate the shortage of glycering (PEs 115 and 116). The following month, January 1937, Wittwer agreed with Army Ordnance that the excess production of ethylene oxide from Amendorf which could not be stored as thiodiglycol (the intermediate for poison gas, PE 116; Tr. 1389), should be sent to Ludwigshafen and manufactured into diglycol<sup>1</sup> (PE 117). AMBROS was informed of this, for a week later, namely, on 20 January 1937, at a conference between Dr. Zahn of the Army Ordnance Office and representatives of Farben, where questions of increased production of diglycol and phosgene were discussed, the minutes show that "Dr. Ambros has been asked by the Army Ordnance to ascertain the demand of WASAG and DAG (Dynamit A.G.) as well as the storage facilities" for diglycol (PE 118). Two weeks later, on 4 February 1937, a meeting was held with the Army Ordnance, where Wittwer (AMBROS' liaison man representing both Farben and the Commissioner of Raw Materials) was present<sup>2</sup>. The minutes show that the diglycol requirements of WASAG and DAG for the years 1937 and 1938 were reported to be 250 tons per month (PE 119; cf. Tr. 8091-8094), and to meet the requirements of WASAG and DAG, the production of the Farben Wolfen and Ludwigshafen plants was deemed to be sufficient. AMBROS received a copy of the memorandum of this conference and this exhibit indicates that he had knowledge also of the stockpiling program that was being undertaken

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<sup>1</sup> See Elias' testimony (Tr. 1382, 1389), that ethylene oxide destined for poison gas was unstable and could not be stored; hence it was converted to diglycol which could be reconverted to ethylene oxide.

<sup>2</sup> On 6 January 1937, a meeting took place at the Office of Raw Materials and Synthetics (KRAUCH's Department), with representatives of the military economy staff, of the War Ministry, Army Ordnance Office, Air Ministry, and the Navy, where they discussed the setting up of plants for the production of gunpowder and explosives, stockpiling of finished gunpowder and explosives, "stockpiling of preliminary products and basic materials, such as nitration paper and diglycol," the setting up of plants for the production of chemical warfare agents, the stockpiling of chemical warfare agents and its preliminary products, the stockpiling of losantine, and the choice of sights for storage places to stockpile diglycol, and nitric acid plants and related plants (PE 717).

with respect to diglycol by the Dynamit A.G. plants. AMEROS, having recommended the construction of "A-plants" as a matter to be preferred over the construction of storage facilities, knew that the diglycol plant at Wolfen was constructed as "a standby plant in case of war", for the correspondence directed to Boeckler (his legal assistant who looked after confidential matters for him, Tr. 8106), specifically referred to this plant as such (PE 120). And AMEROS knew that Farben's entire output of diglycol from the Wolfen plant was "to be sold to the explosives factories WASAG and DAG" (PE 121) <sup>1</sup>.

(4) In the sector of explosives, it should be sufficient to note that, beginning with 1935 from a capacity of the Farben plants in May 1939, reached a total of 7,600 tons per month (PE 609, NI-8790, p. 16) <sup>2</sup>; or a capacity of 50,000 tons of gunpowder per month (Tr. 1374). The KRAUCH Office, in February 1939, reported on the planning and execution of the "Rush" plan for producing and stockpiling diglycol, and stated (PE 609, p. 16):

"During the first two years of the war (sic), in which sufficient diglycol would be available, there would be ample time in hand for appropriate extension of plants, if necessary".

The report specifically referred to the diglycol production at Ludwigshafen, Schkopau, Huels, and Trostberg. All plants for this particular

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<sup>1</sup> In 1937 97.5% of its diglycol production went to the explosives factories (PE 1817, p. 24).

<sup>2</sup> This figure covers actual capacity plus "planned" capacity. The reason we include planned capacities and do not restrict the discussion to actual capacity, is because "planning" under Crimes against Peace is just as important as actual production, both from the standpoint of the act and the state of mind.

sector were under the jurisdiction of the defendant AMBROS<sup>1</sup>. Farben was the sole producer of diglycol in Germany (PE 612) and the defendant AMBROS was in charge of the technical phase dealing with its production<sup>2</sup>.

(5) The U.S. Strategic Bombing Survey refers to hexogen and penta as "two of the most modern and effective explosives" (PE 616, p. 3). This hexogen was "2.25 times as effective as TNT" (PE 616, supra, at p. 5). Hexogen has no peacetime use (testimony of Elias, Tr. 1379; testimony of

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<sup>1</sup> Note, too, that Wittwer, AMBROS' assistant, is in KRAUCH's office at this time working on the plans and see especially the reference in the document to immediate plans for equipping an army for 60 divisions (20,000 men to a division, Tr. 11149) and long range planning for equipping an army of 90 divisions (PE 609, pp. 26-31; testimony of Ritter (KRAUCH's assistant), Tr. 9321; testimony of Zahn (Army Ordnance), Tr. 11176, who testifying about his negotiations with Farben prior to 1 September 1939, stated:

"Q. And you needed more diglycol and you negotiated with them (Farben) in order to assure an adequate supply for the production of explosives and chemical warfare agents for the Army, isn't that so?

"A. Yes, if necessary.

"Q. Was it necessary to have sufficient intermediates of diglycol to produce explosives and chemical warfare agents?

"A. According to the program which was demanded, larger production was needed."

On 10 February 1939, KRAUCH sent AMBROS a detailed report about the hexogen and toluene situation, which AMBROS acknowledged on 21 February 1939 (PE 1937, p. 3). He particularly refers to his collaboration with DAG with respect to the hexogen plants.

<sup>2</sup> While the discussion herein deals with the preliminary products for explosives and gunpowder, and the evidence discloses knowledge that such intermediate products were to be sent to the explosives plants of DAG, we shall, in the discussion in the GAJEWSKI brief, deal with the relationship between Farben and DAG, and show that the DAG occupied the dominant field in Germany in the production of explosives and gunpowder; that in 1938, the DAG plants (and subsidiaries) produced 100% of all the gunpowder and 82.5% of all the explosives in Germany.



Schindler, chief engineer of Dynamit A.G., Tr. 12726). The defendant AMBROS collaborated with Dynamit A.G. with respect to technical matters and the furnishing of intermediate products for their explosives (testimony of Schindler, chief engineer of DAG; Tr. 12351 to 12356). This covered the period both before and after the war (Tr. 12356)<sup>1</sup>. See also FE 2330, AMBROS' collaboration in 1938 with WASAG in the hexogen field. In November 1938, AMBROS, writing to KRAUCH, refers to his collaboration in this field and asks KRAUCH to secure the support of Farben's Oppau plant in this collaboration (FE 2330)<sup>2</sup>. In the field of stabilizers, this came under the technical jurisdiction of AMBROS at Ludwigshafen and he knew that its production was destined for the explosives factories and not for civilian purposes<sup>3</sup>.

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<sup>1</sup> Schindler, chief engineer of Dynamit A.G., testified that he had dealings with AMBROS, both before and after the war, in connection with "certain raw materials and intermediary products, for example, hexamethylene, tetramene, and formaldehyde, which was furnished by Farben...and in connection with the erection of plants which were to serve for the manufacture of those products" (Tr. 12356, 12351).

<sup>2</sup> This is after KRAUCH conferred with AMBROS on the Karin-Hall Plan and the appointment of KRAUCH as Plenipotentiary General for Special Questions in Chemistry (FEs 438 and 453). Just before the Munich crisis, in July 1938, Ludwigshafen (where AMBROS was in charge of organic chemistry), was informed of the increased demand for toluol, and the purpose for the amount was stated as follows: "Meanwhile, as it is known, even increased quantities of pure toluol have been called up for the current month and the month of August in consequence of the demands of the explosives factories which have increased again" (FE 123).

<sup>3</sup> In his defense, AMBROS referred to the fact that the explosives which were produced by Dynamit A.G. were, in the most part, civilian explosives (Tr. 8098). Dynamit A.G. furnished Farben with periodic reports of its turn-over, specifically breaking down its figures to indicate the amount that went for explosives, the amount that went for civilian purposes, and the amount that went for military purposes (FE 1816; testimony of Schmidt of DAG; Tr. 13116). Certain explosives, by their very nature, are military and they could be classified as such by the very fact of their production. Other explosives, which may be used for civilian or military purposes, can only be classified when the product is sold indicating the use to which it would be put (testimony of Schindler, chief engineer of DAG, Tr. 12727). The reports from DAG to Farben containing the breakdown of military and civilian explosives was sufficient notice to indicate the use to which the explosives were being put (testimony of Schmidt of DAG, Tr. 13117).

Chemical Warfare Agents

(6) When Army Ordnance first approached Farben in 1933, and asked them to undertake the production of poison gas, they declined to do so. Farben could not be forced to do that <sup>1</sup>. By 1935, however, Farben collaborated in this field, by building for Orgacid a plant at Ammendorf which was to produce poison gas (PE 351). Although production of the final product was to be by Orgacid Company, Farben undertook "to give all chemical technical advice during building concerning the setting in motion and the running of the factory, including the experimental work" (PE 351, supra). AMEROS was the technical man of Farben who signed the contract with Orgacid and looked after Farben's performance of it. AMEROS, of course, knew (his assistant, Boeckler, was informed on 9 August 1935), that the "new plant in Ammendorf will be exclusively used for the production of dichloroethyldisulphide (mustard gas)" (PE 351, supra; see Elias testimony, Tr. 1387; see also PE 622, letter of Farben, 10 June 1936, referring to the fact that Ludwigshafen (AMEROS plant) is supporting the Ammendorf plant producing mustard gas). A plant to produce ethylene oxide, a necessary raw material for chemical warfare agents (PE 591) was constructed at Zweckel in 1936, under AMEROS' direction (PE 623; see Tr. 7773). He knew that it was to be used for the "case of war" (PE 192).

(7) In 1937 he knew of the increased deliveries by Farben of chlorine for Ammendorf production (PEs 624, 625, 626 and 627). By 1937, Farben had already "mapped out" the extent of its participation in the chemical warfare field as being the production of the intermediate products for poison gas (leaving it to another company to produce the final product); and the furnishing of the technical experience in the construction of the physical facilities for the production of poison gas

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<sup>1</sup> Testimony of Zahn, Chief of Army Ordnance Section for Explosives and Chemical Warfare Agents, Tr. 11477-11481; see AMEROS' own statement, PE 350.

(PE 628) <sup>1</sup>.

(8) In April 1937, AMBROS advised KRAUCH's office that he was ready to put Farben's experience at his disposal for "the extension of the standby plant at Trostberg" <sup>2</sup> knowing that "the operation of the plant in peacetime was not envisaged" and that it was to be used to produce intermediates for chemical warfare agents (PE 598, p. 4).

(9) In July 1937, AMBROS further wrote KRAUCH about the Trostberg-Gendorf plant and the increase of facilities for the production of intermediate products for poison gas. He also knew then that the planning called for "a nitrogen of lime factory in case of war" (PE 2315).

(10) In May 1938, AMBROS appointed Wittwer his liaison man between Farben and the Army High Command in the planning and operation of the chemical warfare sector (PE 2318; Tr. 11746). At the same time, in May 1938, AMBROS wrote to the Army High Command in connection with the construction of the Farben chemical plant at Huels and stated:

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<sup>1</sup> This is set out in more detail in the minutes of a conference in February 1939 (PE 2319; Tr. 11607), where it is stated: "However, it also seems expedient from the point of view of Farben that we should in this way take a part in the sphere of chemical warfare agents: 1) On joining Orgacid, Farben would get insight into and influence on these plants, that is, for instance, also in Ammendorf again. It would not be possible for anything to be built or operated without Farben's knowledge. 2) By giving the order for construction of the new plants to Orgacid, Farben is able to make its experience available in the interests of the Reich and yet will not be given the orders to carry out the construction as a whole. The Orgacid will deal with all the official, technical, constructional questions, while Farben will only undertake the design and possibly the assembly of certain installations in which it is interested. For instance, it is possible that in the first Direct-Lost plant, Farben might undertake to provide the ethylene, and if the Leverkusen experiments fail, Auer will take charge of Direct-Lost machinery, etc."

Dr. Zahn, chief of Army Ordnance for chemical warfare agents and explosives, testified that the collaboration between Farben and Orgacid followed those lines in principle (Tr. 11608). He was in a position to know because he participated in these discussions with AMBROS back in October 1938 (PE 629).

<sup>2</sup> The Trostberg plant is the same as Gendorf (Tr. 11471). Although Farben's subsidiary company, Anorgana, later operated the plant, its part in setting up the Gendorf plant is referred to in the recital clauses of the contract (PE 637).



"With regard to the A-plant project itself, we beg to state that the various sections which are the responsibility of Farben, viz. diglycol, oxol, and storehouses, are already being planned in detail. For the planning of the whole of this sector we now require, as soon as possible, the construction plans for the esterification plant<sup>1</sup> for mustard gas (Direct-Lost) and the storerooms required in connection therewith" (FE 597)<sup>2</sup>.

(11) In June 1938, AMEROS wrote KRAUCH giving him his impressions of the development of the program for the manufacture of chemical warfare agents and explosives in Germany, stating:

"Rearmament in the field of chemical warfare is inadequate and has, to all intents and purposes, remained at the 1918 level<sup>3</sup>. Only during the last

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<sup>1</sup> A plant which will convert oxol into finished mustard gas (Tr. 1390). See details of further planning for Huels in Farben memo, March 1938 (FE 559). That Schkopau and Huels, among others, were set up to integrate the mobilization planning in connection with the Farben plants, such as Ludwigshafen and Oppau, appears from the following document of 25 September 1939, when Goering's office wrote to General Thomas of the Army High Command stating: "I have ascertained that the Ludwigshafen and Oppau plants have to a large extent switched over the production of important products to plants in central Germany on the strength of directives or suggestions received by them during the last few years of the military economic preparation period; for instance, among others, the Schkopau plant which was built in the transition period. Certain products are being prepared in the new Buna works, Huels, as substitute products for Ludwigshafen and Oppau" (FE 268, p. 2). See also the discussion at the TEA in June 1943, where in considering the problem of transferring the more important production to safer areas in view of the military operations in the West, statement is made that since 1933 when new installations were erected, the basic decision was made "to set up new large plants for this purpose (transfer to geographically safe areas)...in the field of organic chemical goods, Schkopau was founded...where together with Buna production, large scale manufacturing of phthalic acid, etc. was planned in order to cut out further increases in Western production... The location and production program was chosen from the outset in such a way that they would take over such manufactures as already existed in other, principally Western, plants" (FE 678).

<sup>2</sup> The fact that these preparations were started appears in the recitals of the contract re Huels (FE 636).

<sup>3</sup> This is a significant admission indicating knowledge of the planning in this sector. In the Army Ordnance Office, at that time, Production Plan 63 was in effect to equip 63 divisions (see testimony of Ehmann, Army Ordnance, Tr. 5373; Zahn, Army Ordnance, testified that this was an immediate plan, as distinguished from a long range plan, Tr. 11452, 11587; Dr. Ritter, of KRAUCH's Office, also knew of Production Plan 63, figures with the military men, Tr. 11456).

few months have attempts been made to apply technical advances to the old chemical warfare agents and under the driving force of industry, especially I.G. Farben, to develop new types--mixed mustard gas, N-mustard gas, etc." (PE 438).

AMEROS concluded his letter by saying:

"If German rearmament is to proceed with the necessary speed and on national principles, what we need is that we should deal with one single responsible office."

Immediately following that letter comes the speeding up of the planning of the explosives and chemical warfare agents program, 30 June 1938 (PE 440) <sup>1</sup>.

(12) In August 1938, AMEROS' department at Ludwigshafen advised the Army Ordnance of the status of its facilities and expected expansion at Ludwigshafen, Ammendorf, Huels, Trostberg (Gendorf), and Schkopau, to produce the needed intermediate products for chemical warfare agents (PE 255) <sup>2</sup>.

(13) With KRAUCH's appointment in August 1938, as Plenipotentiary General in Goering's office, the order was given to Farben (addressed to Ludwigshafen where AMEROS was in charge), that "the building projects for diglycol expansion, ethylene experimental plant Sodingen for D-L (Lost) experiments, have been classified as urgent building projects, for which no postponement of the deadline set for their completion can be tolerated." And Wittwer, AMEROS' assistant from Ludwigshafen, is now appointed KRAUCH's technical adviser and supervisor of the program, "with the consent of the High Command of the Army WA and the Supreme Command of

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<sup>1</sup> While these developments are being treated, for convenience, under the subject of chemical warfare agents, it also cuts across the defendant AMEROS' participation in the field of explosives. PE 440, supra, p. 2, refers to hexogene production. AMEROS was at this time collaborating with WASAG's Elsnig plant on hexogene. PE 2330; PE 440, p. 3, refers to the planning at Ludwigshafen, Ammendorf, Huels, and Schkopau, for production of chemical warfare agents. All plants (except Ammendorf, which belonged to Orgacid) were under AMEROS' charge. In addition, the recitals in the contract (PE 638) refer to the experiments at Ludwigshafen, Schkopau, etc. for the production of intermediates for poison gas.

<sup>2</sup> Back in May 1938, AMEROS had discussed with Army Ordnance Farben's responsibility for the planning of this sector (PE 597; ter MEER was in on this).

the Wehrmacht" (PE 217) <sup>1</sup>.

(14) AMBROS' contribution in this field was the subject of a conference on 1 February 1939, between representatives of KRAUCH's Office and Army Ordnance (PE 634). On 9 February 1939, KRAUCH's Office reported on the status of the Chemical warfare agents program (PE 609) <sup>2</sup> and on 11 February 1939, KRAUCH informed AMBROS about the conference (PE 634).

(15) In May 1939, KRAUCH's Office again reports the progress in the chemical warfare sector and the actual production at Ammendorf is given, together with a notation that from 1 October 1939, the Ammendorf production would be increased and the production of oxol from Ludwigshafen diverted to it; the Huels plant upon completion (estimated 1 January 1940) was to be used for the production of mustard gas as well as the Trostberg-Gendorf plant (completion estimated 1 January 1940). The Strassfurth plant was already producing arsinoil for mustard gas (PE 609, pp. 19, 32).

(16) In August 1939, AMBROS is engaged in the planning of installations at Uerdingen and Hoechst for the production of a poison gas, called "Perstoff" (PEs 635 and 2314; Tr. 11468).

(17) The extent of AMBROS' participation in the production of poison gas after 1 September 1939 and the efforts to conceal Farben's participation in that program; its controversy with the SS as to the operation of the poison gas plants (PE 14), the development of Tabun and Sarin, new toxic poison gases, are indicated in PEs 640-656.

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<sup>1</sup> KRAUCH, on 11 February 1939, wrote to AMBROS about this saying: "First of all, may I express my particular gratitude to you for having put Dr. Wittwer at my disposal for the coordination and direction of the experimental work and for the construction of the new plant....(he) has won the full recognition of the representatives of the Army Ordnance Office" (PE 634).

<sup>2</sup> The report of KRAUCH's Office shows AMBROS' participation in this sector as follows (PE 609): In Ludwigshafen the process developed for the production of omega salt (acetophenone) is being carried out on a large scale (p. 8); with respect to UP salt (nitrogen mustard gas), the report states: "In Ammendorf there is a 30 ton per month experimental plant for the production of UP salt. The experiments with this were carried out thus far by Orgacid, but since considerable difficulties have arisen which Orgacid alone cannot cope with, I.G. Farben was recently utilized to a considerable extent", (p. 8) and Dr. Wittwer is referred to as the technical man in Ludwigshafen in charge of the production of ethylene oxide (p.9).



### Synthetic Rubber

(18) In July 1942, when German victory appeared imminent, the defendant AMBROS, writing to the Reich Ministry of Economics, reviewed Farben's efforts in connection with the production of synthetic rubber and stated:

"As you know, I.G. Farben at considerable cost in labor and money, has started to develop buna in such good time and at the risk of private funds and has established large plants for the manufacture of buna to such an extent that the amount of rubber requested for the war by the German Army and the German economy can be met. In view of the services rendered by Farben to the Reich, we do not think it fair if the Reich were now to enter into competition with I.G. Farben in Germany..." (FE 15).

(19) The Wehrmacht was wholly dependant on Farben for its synthetic rubber (FE 615) and Farben was the only producer in Germany of synthetic rubber (FE 658).

(20) Participation of the defendant AMBROS in Farben's synthetic rubber program is second only to that of the defendant ter MEER. His defense, like ter MEER's, has been that the entire synthetic rubber program is wholly unrelated to equipping the Nazi military machine, but on the contrary, was purely private enterprise guided solely by the principles of normal peacetime economy.

(21) In 1935 the peacetime requirements of the German Army were 50 tons per month (FE 546). In 1935 ter MEER gave the defendant AMBROS, the responsibility for the planning and management of the buna plant that was to be built (FE 547, p. 6; Tr. 7764). The Army Ordnance at that time told Farben that "the production of synthetic rubber is no longer a question of foreign exchange but has become a question of military policy" (FE 546, p. 6). The history of the various conferences between the Farben officials and the Reich government agencies are set forth in FE 547 and the participation of the defendant AMBROS in these conferences are therein noted. In April 1936, the foundation for the first buna factory at Schkopau was laid with a production capacity of 200 tons per month (AMBROS, Tr. 7764; FEs 95 and 547). The site was chosen because of military considerations as it had to be constructed

in a protected zone (PE 556). On 15 June 1936, discussions took place with the Reich military officials for the increase of the capacity to 1,000 tons per month (PE 549). Three weeks prior to that time the defendant SCHMITZ attended a conference (on May 1936), with Goering's Committee of Experts where Goering stated:

"Rubber is our weakest point... All preparations must be made for the A-Case to safeguard the supply of the wartime army" (PE 400).

Then Farben agreed in June 1936 to increase the facilities at Schkopau to 1,000 tons per month, it already knew that the improved 2-stage process, which was more economical than the 4-stage process, would be available in the middle of 1937 (PE 549 and PE 2242). Because of the urgency in connection with the construction of the Schkopau plant on the basis of the "temporary execution of the 4-step process" it was undertaken with the knowledge that a loss of 30,000,000 RM was contemplated through the use of this process (PEs 2242 and 549). The compelling factor which persuaded Farben to construct this plant, notwithstanding the expected losses, was the commitment by Goering's office stating:

"It is clear that certain guarantees will be given by the Reich for the sale or the price of the synthetic rubber and for the depreciation of the plants" (PE 549).

In July 1938, the defendant AMEROS knew what the mobilization plans were with respect to the production of synthetic rubber. He, himself, wrote a memorandum to ter MEER stating:

"The mobilization plan provides for a buna production of 100,000 tons per year by 1 July 1940, and the buna capacity of 120,000 tons per year by 1 July 1943" (PE 1895).

The expansion of the Schkopau, Huels, and the Furstenberg plants was planned to meet the requirements of the mobilization plans (PE 1895).

The fact that actual production on 1 September 1939 did not reach the capacity planned under the mobilization plans is no answer to

to the established fact that the planning for the enlargement of the facilities was in preparation for war. In April 1939 the defendant AMEROS participated in further discussions with the Reich officials dealing with the steps to be taken to expand the buna production facilities, and they were informed that "since no change can be made in these deadlines for political reasons, as the Reich Office emphasized once again, which view was also shared by ter MEER, the gentlemen of Farben consider that their suggestion of carrying out further expansion on the basis of the 4-step plan is the only one that can be advocated from a technical point of view at this time" (PE 1571). It was agreed at that conference that the Schkopau and Huels plants were to be expanded to a capacity of 100,000 tons, which was sufficient to meet the mobilization requirements which AMEROS referred to in 1938.

(22) For the importance of the synthetic rubber program in the planning and preparation for war, see the more detailed discussion in Part II of this brief and Part VI, "H - FRITZ TER MEER".



b. COUNT II - PLUNDER AND SPOILIATION

AMEROS was a member of Farben's Vorstand throughout the period of the spoliation charged in the Indictment. Apart from his regular attendance at Vorstand and TEA meetings, he kept company with numerous high officials in various official organizations who were planning and participating in spoliative activities abroad. As a member of the Vorstand and the TEA, AMEROS participated in planning spoliation, and he approved and ratified all the spoliative acts committed by Farben. The paragraphs below merely illustrate his involvement.

FRANCE

(23) The defendant admitted having been present at the TEA and Vorstand meetings when the results of the negotiations re Francolor were discussed (Tr. 8057; PE 345). He attended meetings of various committees which discussed the take-over of the plants in Alsace-Lorraine (PEs 1216 and 2192). He was present at the Vorstand meetings when reports were submitted on the proposed action with respect to Rhone-Poulenc (PE 1270).

(24) In addition to his responsibility as a member of the Vorstand and TEA, for the acts of Farben in the take-over of the properties in France, AMEROS is responsible for using and channeling the production of those plants to the needs of the German Army. AMEROS (together with TER MEER and VON SCHNITZLER), was a member of the Conseil d' Administration of Francolor (Tr. 8058; PE 1256). The production program for Francolor was under his direction (PE 1911).

(25) Early in February, 1942, AMEROS suggested to German Military that the production needed for the direct and indirect requirements of the Army, be transferred to Francolor so as to alleviate the burden on Farben (PE 1997; Tr. 8063 - 8065). In April, 1942, AMEROS wrote to the High Command of the Armed Forces, outlining in detail the production program of Francolor for the summer of 1942 and stating: "In addition to the raw materials for the production of powder and stabilizers, we have also listed manufactures which are of decisive importance, for example, for the rubber supply and lacquer sector and consequently for all three branches of the Wehrmacht" (PEs 1908 and 1909; Tr. 8065 - 8069; PE 1912; Tr. 8071).

(26) In December, 1942, he submitted a further production program for the Francolor plants, for the needs of the Wehrmacht (PEs 1911 and 1912; Tr. 8076). To carry out this program, AMEROS had to request the military for increased coal delivery (PEs 1909, 1913 and 1910), and the military approved.<sup>1</sup> AMEROS testified that when he asked for coal to keep the plants running, he did not intend to produce for the German military but only for the French civilian economy, and that when he told the German Army "it's important for military purposes", he was only engaged in "window dressing" (Tr. 8082-8083). Machinery needed in Germany was dismantled by Farben teams and shipped to Germany (Tr. 8085 - 8087).

(27) The use of French workers in Germany, as part of the integration of the military production program of Francolor, is dealt with in the KRAUCH brief.

#### RUSSIA

(28) The participation of AMEROS in the preparations and plans to take over the rubber plants in Russia and integrate their production to the needs of the German military is fully established by the evidence. Only the defeat of the German Army in Russia prevented these plans from being fully carried out.

(29) The defendant's participation in the plans and preparations to take over the rubber plants in Russia, indicate two main purposes. One, to place his (and Farben's) technical skill at the disposal of the Reich and for that purpose to take over and operate the Russian rubber plants for the continuing needs of the German military in waging war; and two, to prevent the appearance of a competitor in the synthetic rubber field. The latter motive is relevant on the point of showing Farben's initiative in participating in the plans and preparations to take over the Russian plants.

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<sup>1</sup> AMEROS' defense is that all the listed products have peacetime uses and he was directing a production program of Francolor plants for that purpose. While these products do have a peacetime use, it was developed on cross-examination (Tr 8079 - 8083) that AMEROS knew their production was intended for use of the military in the explosives and related fields. See also Part III of the brief, para. 19.

(30) In July, 1942, the defendant AMBROS wrote to the Reich Ministry of Economics stating: "As you know, I. G. Farben, at considerable cost in labor and money, has started to develop Buna in such good time, and at the risk of private funds, has established large plants for the manufacture of Buna to such an extent, that the amount of rubber requested for the war by the German Army and German economy can be met.<sup>1</sup> In view of the services rendered by I. G. Farben to the Reich, we do not think it fair if the Reich were now to enter into competition with Farben in Germany over the utilization of manufacturing methods by using those methods found in Soviet Russia, the more so since these methods can be made workable for the Reich through the intermediary of those experts only whom Farben has put at the disposal of the Reich for that purpose" (PE 15).

(31) On 28 June 1941 shortly after the German attack on Russia, AMBROS wrote to KRAUCH, saying: "I am sending you a list of the gentlemen suitable for an assignment to take over plants there for the production of synthetic rubber \* \* \* Dr. Bokell stressed the importance of exploiting the Russian plants for additional products" (PE 1178). He suggested to KRAUCH the appointment of a Buna commission and two days later, AMBROS issued his first circular to the Buna Commission and he describes their mission to ascertain "using Russian plants for the production of certain types of Buna, or their primary products, in order to utilize the Russian production for our purposes as soon as possible" (PE 1179).

(32) The entire Vorstand, on 10 July 1941, is brought into the planning for Farben's taking over the operation of the Russian plants (PE 1177).<sup>2</sup> AMBROS' second circular to the Buna Commission on 14 July 1941, informed them of discussions with the Ministry of Economics relating to the "cooperation between the occupation authorities and the German technicians," and Farben is identified as the technicians (PE 1180).

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<sup>1</sup> This admission is significant in relation to AMBROS' contention, under Count I, that the Buna program was just a normal peacetime expansion.

<sup>2</sup> Agreements for Farben operation were being drafted shortly thereafter (PEs 1184, 1185 and 1186).



(33) In October, 1941, AMEROS wrote the Ministry of Economics and stated: "As our Army is gradually progressing toward the East, the question of taking over the Russian Buna plants becomes more pressing" (PE 1181). As German troops advanced into Russia, AMEROS pressed the matter further (PE 1188). And during the entire period AMEROS demanded that Farben be given the "exclusive" rights to utilize and operate the Russian plants (PE 1186). His technicians returned empty handed, only because the Russian plants were not "in German possession" (PE 1189).

c. COUNT III - SLAVERY AND MASS MURDER

(34) Defendant AMEROS actively participated in the important Plant Leaders Conferences which had the purpose of crystallizing Farben's policy on labor and social welfare matters (PEs 1329 and 1350). Defendant KRAUCH stated in one of his affidavits that during visits in Gendorf and Schkopau respectively, he noticed a high sick rate among the foreign workers. Defendant KRAUCH was conducted by defendant AMEROS on this particular visit in Schkopau. In connection with Gendorf, KRAUCH states that the reason for the "very high sick rate" was that a great part of the work was carried out with gas which slightly irritated the mucuous membranes (PE 1332). In respect to his responsibility at Schkopau defendant AMEROS stated on direct examination that he considered himself as a delegate of Farben inasmuch as Farben was the owner of Schkopau and had entrusted him with the work there. In the case of Gendorf he stated that he had also been assigned by Farben to direct this plant as well as Dyhrenfurth (Tr. 7787).

(35) A contemporaneous document shows that defendant AMEROS played an important part in the negotiations for workers from the French firm of Francolor. Defendant VON SCHNITZLER in writing to Dr. Ritter of defendant KRAUCH's office stated, "He (Frossard) discussed the details of the execution particularly with Dr. AMEROS . . ." (PE 1337). In answer to his counsel's question as to whether it was not his impression that the first French workers from Francolor were volunteers, defendant AMEROS answered, "Yes" (Tr. 8017). Clearly, therefore, there was a time when he knew that such workers were no longer volunteers, even if it could be said that they were volunteers to begin with.

(36) In connection with workers from Rhone-Poulenc which begin to arrive in Ludwigshafen at least as early as December 1941 (PE 1341), defendant AMEROS stated:

"For instance, those who came from Rhone-Poulenc one day because the Rhone-Poulenc firm too sent its first team to Ludwigshafen on its own, without our being asked . . ." (Tr. 8018)

It is somewhat incredible that Farben was not asked about this, particularly when one considers the great shortage of workers that existed at that time. The affidavit of the witness Joki Frossard states in detail his knowledge as to the involuntary aspect of a group of Rhone-Poulenc workers who came to Schkopau (PE 1352).

(37) Farben's interest in improving the living conditions of foreigners, if by such improvement Farben's interests could be served, is well illustrated in the cases of the Russian prisoners of war, Andrianow and Androjew. A contemporaneous document on this matter shows the deplorable living conditions and the apparent lack of safety on the part of Eastern workers from air raids. Defendant AMEROS approved the transfer of the two Russian workers because of the urgency of the work and the fact that they would need proper night rest to pursue this work (PE 1343).

(38) A contemporaneous document marked "secret" shows the employment by Farben of Eastern workers, French prisoners of war and concentration camp inmates in the Anorgana Gendorf plant where poison gas was manufactured (PE 1353). Such employment was a direct violation of the terms of the Hague and Geneva Conventions. The danger even of casual employment at Gendorf is indicated by the defendant KRAUCH (supra, PE 1332).

(39) A Dr. Hartung was the chief physician of the Gendorf plant. A conference between him and the Dachau concentration camp doctor, a Dr. Walter, concerning the medical treatment of concentration camp inmates at Gendorf is of interest. The memorandum of this conference states in part:

" . . . Dr. Walter is to be informed first . . . before operations which necessitate prolonged treatment, hernia, sterilization, rupture in the groin, etc. are performed.

"Acute TB cases or inmates who for their ailments are rather an encumbrance than useful workers are to be sent back after Dr. Walter has been informed." (PE 1354)

Defendant AMEROS admitted knowledge and participation in the employment of concentration camp inmates in the Gendorf plant (Tr. 7897). A contemporaneous document indicates Gendorf's efforts and ultimate success in securing the approval of the Dachau concentration camp to work concentration camp inmates on Sundays without having to pay for such work (PE 1356). In commenting upon this, defendant AMEROS said:

"This is an incident which is quite unimportant. The bookkeeper did not understand that the prisoners were to be paid on a Sunday when there was no work." (Tr. 7904)

His testimony is diametrically opposed to the facts shown in this contemporaneous document which states in part:

"I object to the charging of Sunday hours which concentration camp prisoners have worked . . ."  
(PE 1356, p. 3)

That the matter was finally settled to Farben's satisfaction is shown by the following excerpt from the document:

"Since the non-charging of Sunday hours causes for organizational reasons special difficulties in Dachau, Unterscharfuehrer Heckendorf requested that Hauptcharfuehrer Neuner in Gendorf be informed that he should report in the future ALL SUNDAYS AS REST PERIODS, even in the event when concentration camp prisoners have been put to work." (Ibid, p. 4)

(40) That defendant AMEROS was recognized among Farben people as having a close relationship with Oswald Pohl is shown by a letter addressed by Dr. Wittwer of Gendorf to AMEROS wherein Wittwer asks his intercession with Pohl to secure more guards for the concentration camp inmates at Gendorf. Wittwer states:

"Since we are constantly having great difficulties in the employment of our concentration camp inmates because of the shortage of guards . . ."  
(PE 1357)

It had previously been indicated by defendant AMEROS in his testimony and by the evidence introduced in his behalf that the treatment of concentration camp inmates at Gendorf was exemplary (Tr. 7897, 7898). In commenting upon Wittwer's request for more guards (PE 1357), AMEROS made the following ridiculous statement:

"No prisoner has ever tried to escape from Gendorf and that is why he (Wittwer) makes the suggestion (for additional guards)." (Tr. 7906)



(41) The close cooperation between the German Labor Front and the Farben officials at Gendorf is shown by the evidence. A contemporaneous document concerning accommodation of new-born children of Eastern workers and Poles states in part:

"... the Anorgana firm, Gendorf plant, will make the 'Grossbaracke' needed for this purpose available on the basis of loaning it. . ."

"In agreement with the Anorgana plant the physician of the plant, Dr. Hartung, is to have charge of the foreign lying-in cases . . ."  
(PE 1355)

The unreliability of Defendant AMEROS' testimony is manifested by his comments on this document during his direct examination. He stated:

"... In the town of Burgkirchen, which is a town near Gendorf, there was a children's home which was built by the German Labor Front. It had nothing whatever to do with the Gendorf plant, with one exception. That is, the doctor of the Gendorf plant, who lived in the town of Burgkirchen, had on his own, taken an interest in the children's home . . ."  
(Tr. 7905)

(42) Defendant AMEROS stated on his examination:

"I thought that the foreigners were volunteers and they were, in the years 1941 and 1942." (Tr. 7803)

"From 1943 on, after the Sauckel decree, then there was non-voluntary recruiting of foreign workers."  
(Tr. 7805)

Defendant AMEROS' memory of dates is not too accurate since the famous Sauckel Decree was issued on 7 May 1942 wherein Sauckel specifically stated:

"Where, however, in the occupied territories the appeal for volunteers does not suffice, obligatory service and drafting must under all circumstances be resorted to. This is an indisputable requirement of our labor situation." (PE 1301)

(43) Defendant AMEROS was asked by his counsel if Farben representatives participated when compulsory recruitment of foreign workers began. To this defendant AMEROS replied, "At the beginning, no" (Tr. 7805).

Defendant AMEROS testified that he removed prisoners of war from the poison gas plant at Dyhrenfurth (Tr. 7815). This is obviously an admission that prisoners of war were employed there contrary to the provisions of the Geneva Convention. (The Tribunal is reminded that the general testimony

of the defendants has been that the employment of prisoners of war was controlled by the Wehrmacht through the commandants of the prisoner of war camps).

(44) Defendant AMEROS stated that Farben did not want any profit from Anorgana and that he suggested that Farben's share of the profit be used for the foundation of a fund for the employees (Tr. 7893). In this connection he further stated:

"My great anxiety was that during the production of the dangerous poison gas Tabun some accident might happen, and since these firms did not have the social welfare machinery that Farben did . . . we needed an additional assistance and that was supposed to be the employees' fund for Anorgana that I suggested." (Ibid)

This admission as to the danger connected with employment at the poison gas plants of Gendorf and Dyhrenfurth is significant in connection with the forced employment of prisoners of war, foreigners, and concentration camp inmates at such plants (PE 1353).

#### I. G. AUSCHWITZ

(45) In connection with the responsibility of the defendant AMEROS for Farben's activities at I. G. Auschwitz (in Poland), reference is made to Part IV of this Final Brief (together with Part III of the Preliminary Memorandum Brief). In Part IV we analyze, among other things, the evidence which establishes that AMEROS and the other defendants took the initiative in selecting the Auschwitz site for the building of Farben's fourth Buna plant with full knowledge of the existence of the concentration camp Auschwitz, and in contemplation of the use of the inmates in the construction and operation of the Buna plant. In this section we will analyze certain additional evidence relating particularly to the position of the defendant AMEROS at Auschwitz; to his initiative in obtaining concentration camp inmates for the construction of the plant and in pressing for larger and larger numbers of healthy inmates during the course of construction; to certain other aspects of his activity at Auschwitz; and to the extent of his information concerning conditions at Auschwitz.

(46) AMEROS' position at Auschwitz. The direct responsibility of AMEROS for Farben's activities at Auschwitz is indicated by the position he held in Auschwitz.

According to KRAUCH:

"AMEROS and BUETEFISCH were the members of the Executive Board responsible for I.G. Farben Auschwitz; AMEROS, for all questions concerning Buna, as well as for almost all questions regarding the allotment of labor and administration . . ." (PE 1420)

According to BUETEFISCH:

"Otto AMEROS was manager of I.G. Auschwitz. As manager of I.G. Auschwitz he represented its interests at TEA." (PE 1416)

According to AMEROS himself:

"In the I.G. at Auschwitz I was responsible for Sparte II . . . Walther DUERRFELD reported to me on the I.G. Auschwitz, and received instructions from me concerning Buna until Dr. Eisfeld, the chemist, came to Auschwitz. After Dr. Eisfeld had come to I.G. Auschwitz and when Walther DUERRFELD became Betriebsfuehrer of I.G. Auschwitz, both Walther DUERRFELD and Dr. Eisfeld reported to me. I was the superior of both Walther DUERRFELD and Dr. Eisfeld." (PE 1419, p. 47)

"When I was present during the Betriebsfuehrer meetings I also represented the interests of I. G. Auschwitz . . ." (supra, p. 62)

(47) The defendant AMEROS was also a member of the Aufsichtsrat of Fuerstengrube GmbH (Tr. 10929). See section of Brief on BUETEFISCH.

(48) AMEROS' initiative in obtaining concentration camp inmates for the construction of the plant and in pressing for larger and larger numbers of healthy inmates during the course of construction. That the defendant took his position seriously and actually played a major role in procuring concentration camp inmates for I.G. Auschwitz is too clear to warrant extended discussion. From the very beginning, after the selection of the Auschwitz territory, AMEROS submitted to KRAUCH the first requests for workers (PE 1420). At the founders meeting, AMEROS pointed out to those present, including the commandant of the concentration camp Auschwitz, that the "Buna plant should be built with the utmost speed." He reminded them that:

"extensive assistance from the Auschwitz concentration camp had been promised for the building period."

AMEROS also called attention to the fact that Farben, in building I.G. Auschwitz, was performing

"a moral duty in doing its best to make this industrial foundation a corner-stone for a virile, healthy Germanism in the East."



AMEROS concluded by

"expressing the hope that the authorities would support the I.G. industry in this difficult but promising task" (PE 1430).

(49) The following week, on 12 April 1941, defendant AMEROS informs defendant TER MEER of the progress he is making, stating:

"... our new friendship with the SS is proving very profitable.

"On the occasion of a dinner given for us by the administrative authorities of the concentration camp, we further decided upon all measures connected with the use of the superb plant of the concentration camp for the benefit of the Buna works." (PE 1431)

(50) On 23 October 1941 AMEROS, as chairman of the Buna committee, states that the meeting is informed of I.G.'s program at Auschwitz and is specifically told that

"the support given by the concentration camp Auschwitz is very valuable." (PE 569)

(51) It may be recalled that AMEROS testified (Tr. 7907) that when he saw Obergruppenfuhrer SS Fohl, he "did not want more inmates" but wanted other things such as gravel, furniture, etc. The Auschwitz weekly report, however, shows clearly that after AMEROS complained to Fohl of his labor difficulties, Fohl promised to allocate inmates to the Buna concentration camp and even to supply further skilled workers from all other German concentration camps (PE 2130).

(52) In this connection it is interesting to note that it was AMEROS who procured concentration camp inmates for the building of Falkenhagen by the firm Luranil, which was 100% owned by Farben (Tr. 9114) and managed by AMEROS (Tr. 8139; PE 1427).

(53) It was also AMEROS who contacted Obergruppenfuhrer SS Fohl to get concentration camp labor for Gendorf (Tr. 8122), and AMEROS admits that he may have discussed the question of concentration camp inmates for the plant Dyhernfurt (Tr. 8124).

(54) When specifically asked whether, apart from the plants for which he (AMEROS) was responsible, there were any other plants built or operated by Farben with concentration camp inmates, he stated: "I do not know any others" (Tr. 8125).

(55) Finally, the apparent contradiction of AMEROS' character remains unexplained, even by those who worked with him. Defense witness Braus states:

"Considering AMEROS' mentality as a man and a Christian, I was always astonished that he cooperated so much with the SS (Himmler, Pohl) and that, in my view, he also negotiated about further inmates' assignments." (PE 1994)

(56) The true explanation of AMEROS' attitude was supplied by Braus himself when he stated that Otto AMEROS, who was "so greatly concerned with the quick setting up of I. G. Auschwitz, supported Walter DUERRFELD" and that when DUERRFELD pressed him for more inmates, AMEROS supported him saying: "We will do this as DUERRFELD suggests."

(57) Other illustrations of AMEROS' activity at Auschwitz. AMEROS' participation in Auschwitz was not limited to the choosing of the Auschwitz site with the knowledge of the existence of the concentration camp and the intention to use the available concentration camp inmates nor to initiative in actually procuring more and more of those inmates for I.G. Auschwitz. AMEROS was responsible for and actually interested himself in all phases at Auschwitz.

(58) For example, it was AMEROS who discussed in the TEA meeting (1941) the fact that the SS was being paid 3 RM. for each inmate, and it was AMEROS who expressed the opinion that at such wages the use of concentration camp inmates would hardly be profitable:

"... if one considers that one cannot count on normal work efficiency of concentration camp inmates and that additional strength was lost by the long march to work and transportation back to the concentration camp." (PE 1416)

(59) In order to minimize the Farben loss due to such inefficiency, AMEROS, together with BUNTHEISCH, proposed to the Executive Board of I.G. Farben:

"... to erect the concentration camp Monowitz within I.G. territory Auschwitz for reasons of expediency." (FEs 1420 and 1416)

(60) In 1943 at a Central Planning Board meeting it was AMEROS who suggested that in order to extend the production of buna at Auschwitz it would be necessary that "the area of Auschwitz be pacified. This

necessitates the providing of weapons (hand grenades, machine guns and ammunition) for the purpose of arming the crew and the assignment of Bundeswehr (regional defense) (approximately 200-300 men)" (Ex 1507.

(61) AMEROS fully informed as to conditions at Auschwitz. "AMEROS was normally informed of things at Auschwitz at the construction meetings. He attended them (Ex. 1409). Moreover, "when Otto AMEROS or Heinrich HUBERFISCH could not be present in person they were informed about the problems discussed at the Construction Meetings through minutes that were sent to them" (Ex 1423).

(62) In addition to the Construction Meeting and the Distribution Reports there were also weekly reports which gave labor figures, including the limited work, conditions at Auschwitz (Exs 1989 and 1985); testings of inmates by Kapos (Ex 1905), and by civilians (Ex 1987); living conditions of Eastern workers (Ex 1998) and Ukrainian women (Ex 1999), etc.

(63) All weekly reports went to the defendant AMEROS and under the distribution system the person receiving them "would have to lend on the report." The first reader of the Ludwigshafen people on all the weekly reports was always Dr. AMEROS (Ex 2215).

(64) After defense witness Faust testified that AMEROS did receive weekly reports, AMEROS' attorney, Dr. Hoffmann, endeavored to show that even though he received them, he did not have time to read them. He asked:

"For you to be so objective that AMEROS was not informed, although he should have been if he had read your weekly reports. Do you remember any such instances?"

Faust replied:

"No" (Ex 14014).

(65) In addition there was a constant contact maintained by DUMARFIELD with AMEROS; in fact, DUMARFIELD testified that the most frequent destination of his trips was Ludwigshafen (Ex. 1370).

(66) Moreover, it might be noted that AMEROS received information not only concerning Auschwitz, but also, since he was a member of the Aufsichtsrat of Puertengrube, he received reports concerning Puertengrube. Otto AMEROS was always informed about what happened at the Puertengrube



through the so-called coal conferences, of which he regularly received the minutes. After 1943 communications with I.G. Farben consisted chiefly of correspondence (FE 1994).

(67) Of course, AMEROS personally visited Auschwitz on numerous occasions. AMEROS admits that he visited Auschwitz "in 1941, about four times, in 1942, about four times, in 1943, about five times, and in 1944 five times" (FE 1419). In addition he admits visiting the concentration camp Auschwitz three times (supra).

(68) Occasionally AMEROS even watched the inmates when they marched out of the I.G. plant at Auschwitz (supra, p. 57) and finally, in the winter of 1942-1943 defendant AMEROS went through Monowitz and inspected the billets and sick wards (supra, p. 56).

(69) French witness Pfeffer stated:

"I am convinced that Dr. AMEROS knew that the Jews who were in the Monowitz camp couldn't get away alive from that camp and I based this on a meeting I had with him . . . when he discovered that I was a Frenchman and a non-Jew he said to me: 'You have got good luck; you, most probably, will get out of this camp alive.'" (Tr. 3907-3908)

#### d. COUNT V - CONSPIRACY

(70) The comments made in the individual brief on the defendant KRAUSE, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant AMEROS.

5. Proposed Findings of Fact with Respect to the Guilt of Otto AMEROS. The evidence has established beyond a reasonable doubt the guilt of the defendant Otto AMEROS on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant AMEROS under each of these Counts is predicated upon the following facts, which have been established by the proof.

#### COUNT I

1. The following activities of AMEROS, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) AMEROS' activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from January 1938 to 1945; as a member of the Technical Committee during that period; as Chief of the Organic Section at Ludwigshafen; plant leader at Schkopau; Manager at Huls; Manager at I. G. Auschwitz; and Manager of a number of other Farben plants.

(b) AMEROS' activities in other positions, including his activities as head of the Special Committee C in the Ministry of Armament and Munitions; as Manager of Anorgana; Manager of Leuranil; and as a member of the Aufsichtsrat of Fuerstengrube.

(c) AMEROS' activities carried on through the instrumentality of Farben and through his other positions, included: (1) substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. AMEROS participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. AMEROS knew this for a number of reasons:

(a) AMEROS knew that this had been the program of the Nazi party since the early 1920's, and beginning in 1933 it was clear to AMEROS that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in AMEROS' position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by AMEROS and the timing of such activities, establishes that AMEROS knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by AMEROS at which the aims of the Nazi leaders were expressed, and AMEROS' own statements on various occasions, are sufficient in and of themselves to establish that AMEROS had the required state of mind.

(e) AMEROS' state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to AMEROS; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, AMEROS knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant AMEROS.

(a) As a matter of law, even if the facts established that AMEROS acted under duress or coercion, this would be no defense.

(b) The facts do not establish that AMEROS acted under duress or coercion in carrying out any of the activities specified above.

## COUNT II

1. The defendant AMEROS knowingly participated in plans to spoliage, and in spoliating, the chemical industries of occupied countries.

2. AMEROS bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. AMEROS played an especially active role in the plunder and spoliation of property in France and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant AMEROS.



(a) As a matter of law, even if the facts established that AMEROS acted under duress or coercion, this would be no defense.

(b) The facts do not establish that AMEROS acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Sections A and C)

1. AMEROS knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. AMEROS took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of AMEROS were, to AMEROS' knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. AMEROS continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant AMEROS.

(a) As a matter of law, even if the facts established that AMEROS acted under duress or coercion, this would be no defense.

(b) The facts do not establish that AMEROS acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section B - Mass Exterminations)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. AMEROS participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. AMEROS knew that human beings in concentration camps were being exterminated by gassing.

4. AMEROS either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

COUNT V

1. The foregoing activities were engaged in by the defendant AMEROS in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

2. The defendant AMEROS, together with the defendants who were members of the Vorstand of Farben, having knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.

1. Charges in the Indictment. The defendant BUERGIN is indicted under Count One (crimes against peace), Count Two (plunder and spoliation constituting war crimes), Count Three (slave labor constituting war crimes and crimes against humanity), and Count Five (conspiracy to commit crimes against peace). The defendant took the stand in his own behalf (Tr. 8340 et seq.).

2. General Nature of the Evidence Supporting These Charges. BUERGIN bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, BUERGIN bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant BUERGIN are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant BUERGIN sets forth certain highlights in the activities of the defendant BUERGIN and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.



3. BUERGIN's Positions From 1933 to 1945. The positions which the defendant BUERGIN held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in prosecution exhibits 312 and 313 (see also testimony of BUERGIN, Tr. 8340 et seq.). The following positions held by BUERGIN during these years are of special significance:

- (a) BUERGIN was a member of the Vorstand from 1 January 1938 to 1945 (from 1 January 1938 a deputy member; from May 1938 a full Vorstand member).
- (b) BUERGIN was a full member of TEA from 1938 - 1945.
- (c) BUERGIN was Chief of the Works Combine Central Germany from 1938 to 1945.
- (d) BUERGIN was Plant Leader (Betriebsfuehrer) of Bitterfeld-Wolfen Plants from 1938 to 1945.
- (e) From 1936 until 1945, BUERGIN was chairman of Chlorine Sub-Committee (Tr. 8350).
- (f) From 1933 to 1937, before he became Dr. Pistor's successor, BUERGIN was deputy director and Chief of Inorganic Plants of the Works Combine Central Germany.
- (g) BUERGIN became advisor to Krauch in the Office of the Four Year Plan in 1936. He became chairman of the Technical Committee, Sub-Group Soda, Caustic Alkalines, Chlorine, Hydrochloric Acid and Related Products of the Economic Group Chemical Industry in 1944.
- (h) BUERGIN became a Military Economy Leader (Wehrwirtschaftsfuehrer) in 1942.
- (i) BUERGIN was a member of the Aufsichtsrat of the Deutsche Grube from 1943 to 1945; member, Aufsichtsrat, Deutsche Magnesit A.G., Munich, from 1942 to 1945; chairman, Beirat (Advisory Council), Metallguss G.m.b.H., Leipzig, from 1943 to 1945; member, Beirat (Advisory Council), Westfaelische Leichtmetallwerke G.m.b.H., Nachrodt, from 1942 to 1945; member, Aufsichtsrat, Nordisk Lettmetall A.G., Oslo, Norway, from 1942 to 1945;

member, Verwaltungsrat, Kraftwerk Ryburg Schwoerstadt A.G., Rheinfelden, Switzerland, from 1929 to 1947 and member, Aufsichtsrat, Sociedad Electro-Química de Flix, Barcelona, Spain, from 1940 to 1944 (Tr. 8350-57).

(j) BUERGIN was a member of the NSDAP from 1937 to 1945 and a member of DAF (German Labor Front) from 1934 to 1945.

4. Certain Specific Activities of BUERGIN During the Period 1933 to 1945. This Tribunal is requested to frequently "cross-reference" its study of this individual brief on BUERGIN with the year-by-year narrative under Part VI, "B - CARL KRAUCH", pp 6 through 27, and Part VI, "H - FRITZ TER MEER", pp 188 through 232, supra. Since light metals and most of the other main products produced at the plants of the Works Combine Central Germany fell under Sparte II, the Sparte of which TER MEER was chairman, the TER MEER brief should be of some assistance. The Tribunal is also referred to "A - INTRODUCTION" and to "D - Light Metals", p. 38, in Part II, "Certain Activities in Preparation for Aggression".

a. COUNT I - CRIMES AGAINST THE PEACE

(1) Although BUERGIN's special activities were carried out as chief of the Works Combine Central Germany and in the field of Chlorine Electrolysis, being a member of the Vorstand of Farben during the period 1938 to 1945, he was informed of and authorized, approved, or ratified all major activities of Farben during this period. BUERGIN who had joined the firm Griesheim-Electron, one of Farben's predecessor firms in 1920, became plant manager and factory leader of the Rheinfelden Plant in about 1923 and "Prokurist" of Farben in 1926. In 1931 he was transferred to Farben Bitterfeld Plant where he became Deputy Chief of the Works Combine Central Germany and head of the Inorganics production. The Works Combine Central Germany where BUERGIN worked from 1931 to 1945 was greatly extended during the early years of the Nazi Regime in order to equip the newly created German Wehrmacht. In 1933 Farben received an order from the Luftwaffe to build a magnesium plant with the capacity of

12,000 tons per year. The site of this factory, Aken near Bitterfeld, had been selected by the Luftwaffe in the strategically safe central part of Germany. This plant formed a part of Works Combine Central Germany. In 1934 another magnesium factory was started by Farben for the Luftwaffe at Stassfurt. The major part of the investment for this plant was provided by the Luftwaffe in the form of credit of 44 million Reich Marks, for both plants (Aken and Stassfurt). The Luftwaffe had accorded to Farben particularly high profit rates in order to enable Farben to repay the credits out of the accrued extra profits (PEs 98, 573, 574 and 107). BUERGIN, who was not directly involved in the negotiations between the Luftwaffe and Farben was, however, informed of the purpose of these new plants (PE 98, and BUERGIN's own testimony, Tr. 8356). Concerning the Stassfurt plant the defense witness Milch stated that: "The program ordered by Hitler and Goering for the Air Force attempted a considerable expansion of the raw material bases \* \* \* and this was the reason why the factory was planned in Stassfurt." (Tr. 8539). This witness also stated that only a delay in the execution of Hitler's and Goering's program was the reason why the Farben Stassfurt Plant "for a short period of time - that is several months - did not receive any orders and therefore was not in operation" (Tr. 8359).

(2) A report of Dr. Neukirch, a subordinate of Dr. Pistor who joined Krauch's staff in the Office for Economic Development, shows that the expansion of the magnesium production of Farben in Bitterfeld, Aken and Stassfurt was due exclusively to production for the Luftwaffe. Dr. Neukirch describes "the growth of the magnesium industry after the Assumption of Power (Machtuebernahme) until the beginning of the Four Year Plan: 1933 - 1935."

"Despite successful efforts to establish magnesium as industrial material, it was not possible to keep the Bitterfeld plant working constantly at full production. The rearmament after the change of government, however, brought far-reaching changes. Growing Wehrmacht requirements, particularly for the vehicles and plane industry, considerably increased the use of magnesium in the fields which have been developed until then. There was a marked increase in demand owing to the prod-



uction of the incendiary bomb, which had already been suggested in 1917 by Dr. SINGER.

\* \* \*

As a result of these developments the demand for magnesium grew by leaps and bounds so that the Ministry of Aviation requested I.G. Bitterfeld to expand its plants. Work was begun in 1934 on the Aken plant on the Elbe the production of 8,000 tons magnesium per year. After a building period of 8½ months it was possible to produce magnesium metal in this plant. Whereas, Bitterfeld was still mostly working on a magnesium basis, Aken produced magnesium on a basis of dolomite/ final liquor (Endlaug). To this end, a magnesium factory, utilizing Kruegershall final liquor and Rhenish dolomite, with production facilities for 24,000 tons per year was built, simultaneously with Aken, in the idle Teutschenthal plant of I.G. Bitterfeld. Following upon Aken, at the request of the Ministry of Aviation, the Stassfurt plant, with facilities to produce 4,200 tons per year, including 12,000 tons magnesia per year on a final liquor basis was built by I.G. Bitterfeld for Preussag. This factory served as a stand-by plant and was not operated until some time after its completion." (PE 590).

Although, BUERGIN emphasized on direct examination that this special field was the chlorine electrolysis and that it was Dr. Pistor who was responsible for the magnesium field before 1938, he admitted that Pistor concerned himself mostly with the development of magnesium and that he (BUERGIN) was in charge of the administration of the magnesium plant.

"The magnesium plant was really Dr. Pistor's field. This man concerned himself for decades with the development of this metal. He put those plants under my charge, for administration only, and he emphasized that these plants should retain their independence that they had had up to that time." (Tr. 8343).

(3) BUERGIN's special field, in which he was the outstanding German expert, the electrolysis of chlorine, played an important part in Farben's earliest contributions to Goering's Four Year Plan (PE 680). In 1936 BUERGIN was appointed advisor to Krauch in the Office for German Raw Materials and Synthetics immediately after the establishment of this Office. BUERGIN was contacted directly by the Economic Group Chemical Industry and asked to put himself at the disposal of Goering's Office of the Four Year Plan (PE 1961). This shows that already by that time BUERGIN held considerable standing in the German chemical industry.

(4) BUEGIN tried to stress on direct examination that before 1938 he had knowledge only of his special field of production and that he could not know of the military importance of the Works Combine Central Germany in the field of light metals since all preparations for all mobilization planning and production for the Wehrmacht were secret and that he had no access to secret information. It is shown by a confidential letter signed by Dr. Pistor and von der Bey that in April 1937 BUEGIN gave a special survey of the production of the entire Works Combine Central Germany and its importance as to war armament and vital production (PE 1959). The same document shows that BUEGIN was present at a meeting in April 1937, at which the production of Works Combine Central Germany was discussed between Farben representatives and all military, military economic and governmental agencies concerned (PE 1959). At about the same time BUEGIN took an active part in the expansion of Teutschenthal factory for magnesium intermediates (PE 623).

(5) After BUEGIN had become chief of Works Combine Central Germany, when he succeeded Dr. Pistor on 1 January 1938, he was Farben's representative in most of the negotiations with the Reich Government and the Air Force in questions of the production of light metals (PE 47 and 377, p. 12, items 11 and 13). In his capacity as the only Vorstand member directly concerned with the production of light metals, BUEGIN also represented Farben in various governmental and semi-governmental agencies where the production of light metals was involved (PE 512, p. 2, item B). BUEGIN, who had been informed of the construction of the so-called "Z" plant at Wolfen, in November 1936 (PE 114), became responsible for this stand-by plant after he had assumed the leadership of the Works Combine Central Germany. This "Z" plant produced phosgene, glycol, diglycol, triglycol and stabilizers (PE 518). The Works Combine Central Germany comprised in 1945 the following factories: Bitterfeld (producing magnesium, aluminum, inorganics and plastics); Wolfen-Farben (producing inorganic and organic intermediates); Aken (producing magnesium and aluminum); Stassfurt (producing magnesium); Teutschenthal (producing magnesium);

Zeirfelden (producing inorganics); Scharzfeld (a dolomite quarry) and Doeberitz (producing organic intermediates) (PE 47; see also Tr. 11862).

(6) On 2 March 1938, a meeting of the Chemical Committee was held, with BUERGIN present among others. The acquisition of Shoda-Wetzler was being planned. For a further discussion of the crowded history of Farben and aggression in Austria, and its clear showing of the knowledge of an aggressive policy by these defendants, see Part VI, "C - HERMANN SCHMITZ, pp. 60-61, and "P - HANS KUEHN", below.

(7) Between July and October 1938 representatives of Farben Bitterfeld negotiated with the Luftwaffe about the construction of a new Milling Plant and a special production need for incendiary bombs "under the mobilization program" (PE 581, and PE 676). BUERGIN was directly concerned with this matter (PE 582). As head of the Bitterfeld Works Combine, BUERGIN was currently informed of the special preparations for the case of mobilization in September 1938, before the invasion of the Sudeten part of Czechoslovakia. In one of the letters addressed to BUERGIN by V/W in September 1938 concerning deliveries during the imminent mobilization we find the following paragraph:

"For the goods which are delivered for export, transportation orders must also be applied for. In order to maintain uniformity we request that one start with the assumption that deliveries cannot be made to Czechoslovakia, Russia, France, England and countries overseas" (PE 223).

BUERGIN was a member of the Vorstand on 22 September 1938, when the Central Committee of Farben placed 100,000 Reichsmarks at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps, formed to create disturbances on the Czech border and was informed of this contribution (PE 834). In September Farben plants were advised through the V/W concerning problems connected with deliveries in case of mobilization because of transportation bottlenecks (PE 224). For further details, see Part VI, "L - HEINRICH BUETEFISCH", below. For a further discussion of activities involving Vorstand members just preceding the occupation of the Sudetenland, see Part VI, "B - CARL



KRAUCH", pp. 17 - 22, and "H - FRITZ TER MEER", above.

(8) In January and February 1939, representatives of Krauch's Office for Economic Development together with representatives of the Army Ordnance Office made a survey of all the production conditions in the field of explosives, chemical warfare agents and intermediates. (PE 609). On this trip also the Bitterfeld and the Wolfen Farben plants were visited with regard to the production of intermediates for explosives and chemical warfare agents (Tr 8387). These intermediates for explosives, glycol and diglycol, were produced at Wolfen-Farben, already before the war (PE 350) and the diglycol produced there was stockpiled (PE 734, item 3a). In August 1939 a letter from Farben's main office to Uerdingen, and offices of the TEA, dealt with the production of "Perstoff" poison gas. Reference was made to the building of a small plant at Uerdingen. The production of 800 tons of Perstoff per month was discussed "with the aid of data available from the last war". BUERGIN was informed of this matter since he had to provide the necessary intermediates (PE 635). Only four weeks before the outbreak of the war the capacity for the production losantine, a decontaminating substance for chemical warfare, was increased to 250 million tablets as indicated in a letter of Farben Bitterfeld dated 5 August 1939 (PE 256, p. 7). Wolfen-Farben and Doeberitz, another Farben stand-by plant of the Works Combine Central Germany, were the only producers of losantine for the Wehrmacht (PE 254). In August 1939 the Vorstand approved the contribution of 50 thousand Reichmarks for the mobilization of the National Socialist Air Corps (PE 1047). In September 1939, a special meeting of Sparte II with BUERGIN among others present, discussed the situation caused by the outbreak of war. It was stated that "the present mobilization program which embraces all manufacture by I.G. became effective on 3 September 1939" (PE 265). BUERGIN reported at this meeting on the planned expansion for the magnesium and aluminum production and pointed out that for this purpose the personnel and the organization of the "Construction Staff Speer" had been put at Farben's disposal (PE 265).

(9) BUERGIN followed several common lines of defense: everything Farben did was really based on Government orders; most of the technical developments and expansion was secret and therefore not accessible to him; Farben did not produce any finished arms and munition; and all of Farben products could also be used to a great extent in a peace-time economy. In order to illustrate that Farben acted only upon Government orders, BUERGIN mentioned the Community of Patents Agreement of 1934 in the field of light metals as "a typical example how the authorities already at that time began to order private enterprise around" (Tr. 8359). On cross examination BUERGIN was not able to explain what kind of compulsion was used in the formation of this Community of Patents Agreement. The only detailed explanation BUERGIN could give about the "compulsory nature" of this agreement was: "I know that we in this pool were the givers rather than the takers and licenses were calculated at a very low rate by the authorities if they were calculated at all" (Tr. 8456). As to BUERGIN's defense that he had insight only into the small sector which was under his charge, that he was not advised at all in the field of armament, it should be pointed out that PE 1959 shows that BUERGIN gave a lecture to representatives of the military and government agencies on the armament production of the Works Combine Central Germany in April 1937. As to BUERGIN's contention that the armament production plans "were top secret Reich matters and, accordingly, industry could not be generally informed about it" (Tr. 8361), it should be remembered that the Reich Air Ministry informed Farben Bitterfeld of production figures which were considered as secret and that such information was given by officials of the Air Ministry to Farben although divulging such information should have brought, as the defense witness Milch stated, ten years prison to the official concerned (Tr. 8549, 8550). With respect to BUERGIN's contention that Farben did not produce any finished products from light metals reference is made to PE 2244 which reveals that Farben Bitterfeld submitted to the High Command of the Navy before the war drawings,

sketches and calculations for light metal superstructures of torpedo boats and actually produced them at Farben plants. The merits of BUERGIN's argument that Farben's products such as magnesium and aluminum could also be used to a great extent in a peace-time economy, is demonstrated by the increases shown of Farben's production during the war years (PE 612; see also Part II, Section C, above, for further discussion of a similar defense).

b. COUNT II - PLUNDER AND SPOILIATION

(10) As a Vorstand member, and as a member of the Technical Committee, throughout the war years, the defendant BUERGIN participated in, approved and ratified all of Farben's spoliative acts in the occupied countries. The following paragraphs are merely illustrative.

Poland

(11) On 23 October 1939, defendant BUERGIN received a note of Farben director Huenneke, referring to a telephone conversation between defendants BUERGIN and HAEFLIGER, dealing with the Boruta plant: "As it is intended to have the Boruta taken over by a German corporation organized for that purpose", the inspection of Boruta required in this connection should also be extended to the Sandomir factory controlled by Boruta (PE 1966). BUERGIN initialed this note (Tr. 8464). He then went to Poland and inspected chemical factories there. At about the same time, defendant WURSTER also inspected Polish factories. On their trips - BUERGIN's to Southern Poland, and WURSTER's to Central Poland (PE 2120, No. 2) - they exchanged travel notes (PEs 1134, 1967). At the end of his report, defendant BUERGIN lists what kind of equipment "will be of interest for German industry for different use". Among them are "the contact apparatus and various autoclaves in the Debica rubber factory" (PE 1967). As defendant KUEHNE admitted (Tr. 10258), equipment from the Debica factory was later placed at Farben's disposal by the German Wehrmacht, and brought to Leverkusen. A joint stock company was organized in order to operate it, in which defendant THE LIEBER



became  
a member of the Board (Tr. 10258).

(12) In his defense, defendant BUERGIN pointed to the fact that his Polish inspection trip was made on orders of the government, and had no connection whatsoever with Farben (Tr. 8411). In fact, however, both he and defendant WURSTER reported to the Farben Vorstand "on their general impressions as well as particularly on the technical condition and the economic situation of the plants inspected" (PE 2120). As to details about this meeting, see final brief on WURSTER (Part VI - T, infra). The over-all picture of Farben's spoliation in Poland has been developed in the Preliminary Memorandum Brief (Part II, No. 16). The main defenses have been dealt with in the individual brief on defendant TER MEER's responsibility (Part VI - H. supra). Reference is made to these briefs.

#### Soviet Russia

(13) As a member of the Vorstand, defendant BUERGIN received de Haas's report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (PE 1175). That he was interested in such planned reconstruction, is shown by PE 1998, dealing with Russian light metal plants, and PE 1568, dealing with one of the so-called Monopoly Corporations, the Soda & Aetzalkalien-Ost G.m.b.H.

#### France (Alsace-Lorraine)

(14) BUERGIN was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine: Strasbourg, Werlebach and Diedenhofen (PE 2192).

#### France (Francolor)

(15) As member of the Farben Vorstand, he received the minutes of Farben's first meeting with the French industrialists in Wiesbaden on 21/22 November 1940 (PE 2195). As a member of

Farben's TEA (Technical Committee) from 1938 to 1945 (PE 282), he also attended the TEA meeting of 17 December 1940 where TER MEER, speaking of Francolor, reported that

"an agreement was reached with the French dyestuff group whereby we are assured of decisive influence on French dyestuff production". (PE 345).

France (Rhone-Poulenc)

(16) BUERGIN also attended the Vorstand meeting of 12 December 1940 where defendant MANN reported on the license agreement with Rhone-Poulenc which was contemplated (and later on concluded) for a 50 years' period, and where MANN also stated:

"In addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital" (PE 1270).

The Vorstand members present, among them defendant BUERGIN "agreed to this line of action" (PE 1270).

Norway

(17) BUERGIN played a most active part in the spoliation of Norway. As to the individual steps taken by Farben, reference is made to the Preliminary Memorandum Brief (Part II, Nos. 25-27), this brief on Norway (Part III - B, supra) and the individual brief on defendant ILGNER's responsibility (Part VI - N, infra).

(18) BUERGIN received the report of Farben's Metal Sub-Commission of 16 April 1940 according to which "the Norwegian economy will be mobilized to work for us" (PE 1192). He also received Farben's two New Order reports on Norway (PE 1192). It was defendant BUERGIN who, together with ILGNER's affiant Moschel, wrote the basic letter of 23 October 1940 to SCHMITZ, TER MEER and Weber-Andreas, reporting on the aluminum project Norway, and recommending, in agreement with defendant KRAUCH, Farben's participation on largest scale (PE 586). BUERGIN admits that "undoubtedly a permanent participation was intended", and also that "the Ministry of Aviation wanted to carry out the entire Norwegian aluminum plans by way of the Nordag, without any partners" (Tr. 8405). This, again, rebuts the defense attempted by some defendants that Farben, when participating in this project, acted under government pressure

(see also this brief on Norway, Part III - B, supra). BUERGIN's further participation appears from PE 1193; PE 1194; PE 1204; PE 1201 (the last two documents also dealing with the increase of Norsk Hydro's capital, and the plan to acquire a majority); PE 1198: contract with Nordisk Lettmetall, signed by BUERGIN; PE 1199: Farben's letter to the Reich Air Minister, signed BUERGIN and HAEFLIGER, of 8 April 1942, emphasizing that the new Norwegian factory was being built up "in the interest of German armament", also stressing that "Nordisk Lettmetall ... must be considered to be an enterprise under German control since Hansa Leichtmetall A.G. (the government agency) and we own 2/3 of the shares, and also control the third stockholder, Norsk Hydro"; and PE 1208; all of them, except the last one, contemporaneous documents.

(19) In his defense, defendant BUERGIN has stated that, though he co-signed the basic letter of 23 October 1940 (PE 586), its author was not he, but Mr. Moschel. But he did not, and could not possibly, say that the suggestions contained therein were not approved of by him when he signed the letter. The only document BUERGIN submits in connection with Norway is his Exh. 37, affidavit by Mayer-Wegelin, according to which a big part of the machinery used in Nordisk Lettmetall was imported from Germany. We have dealt with the "defense" in this brief on Norway, Part III - B, supra. In his affidavit, Mayer-Wegelin points out that it was planned to have "a special allocation of vegetables" go with such machinery to Norway. "Whether this plan was put into effect or not, I cannot say." The Prosecution has no comment.

c. COUNT III - SLAVERY AND MASS MURDER

(20) Defendant BUERGIN was plant leader of the Farben Central Germany Combine. He was a member of and regularly attended the Plant Leaders Conferences called by defendant SCHNEIDER wherein all matters pertaining to workers, including foreign workers, such as accommodations, sickness reports, and disciplinary measures were discussed. It was in these meetings that the Farben policy on



workers' questions was largely determined, and the meetings also served as a medium for the plant leaders to keep entirely current on the developments in the labor field by exchanging experiences, etc. (PEs 394 and 1329).

21) The large number of foreigners employed at the Farben Bitterfeld plant is indicated by the minutes of 3 April 1944 of the managers' meeting at Bitterfeld at which defendant BUERGIN was present. The minutes report that 58 per cent of the employees are foreigners and that this percentage includes foreign women who perform the work of men. That Bitterfeld planned the use of concentration camp inmates is clearly indicated by a teletype message of 5 July 1944 from the commandant of the Buchenwald concentration camp to the Amtsgruppe D (PE 1397). The teletype refers to a discussion of 12 July with Director Dr. Lang (of Bitterfeld) whose name appears in BUERGIN's testimony, particularly concerning the report on the hanging of Russians in the Bitterfeld Russian workers' camp (Tr. 8461; PE 1964).

(22) As to the deplorable conditions obtaining at Bitterfeld in connection with the food, sanitary conditions, type of work, employment of children, etc. the testimony of the involuntary French worker Rene Balandier who was at Bitterfeld from November 1942 until June 1945 is very revealing (PE 1398). (See also PE 1934 which is the so-called contract for Balandier's employment. This contract Balandier refused to sign.)

(23) In a managers' meeting of 19 June 1944 the sickness rates are discussed, and it is to be noted that the sickness rate of Italian prisoners is 15 per cent. These same minutes point up the attitude taken by defendant BUERGIN in that the regulation of leaves for 1944 was announced, and it was stated that there is no hesitancy in giving leaves also to foreign civilian workers so long as their homeward journey is blocked (PE 1396). As to the existence of vermin in the Bitterfeld foreigners' camp, the unsatisfactory conditions in general in respect to existence of positive tuberculosis cases,

married couples living in the same room with no segregation, the billeting of more than 12 women in one room of the women's camp, the incredible state of the lavatories and bathrooms, the inadequacy of sickroom facilities, etc., see PEs 2154, 2176 and 2178. These represent the findings of official agencies such as the Trade Inspection Board and the German Labor Front. The type of accommodations and the floor space accorded the foreign workers in the housing facilities at Bitterfeld is indicated by the fact that a credit request of 1 April 1944 calls for a floor space of 1360 square meters and 2,000 workers are to be housed. The subject of the memorandum is "Dayroom Huts." However, the body of the memorandum which gives the reason for the request states specifically:

"The requested huts for the housing of the foreign laborers in the Perlon-establishment are necessary, because the projected day-rooms may not be erected. The proposed huts serve for the housing of 2,000 laborers." (PE 1400).

(24) On direct examination in connection with the Law for the Regulation of National Labor, BUERGIN stated:

"The law that you mentioned made the Vorstand the leader of the enterprise . . ." (Tr. 8414).

BUERGIN stated that it was the endeavor at Farben Bitterfeld to create exemplary social welfare institutions in the field of housing, feeding, etc. (Tr. 8415). ~~In contrast, see PEs 2154, 2176 and 2178, supra, indicating what was actually done.~~

(25) BUERGIN admitted on examination that the first foreign workers arrived at Bitterfeld approximately in the autumn of 1940 (Tr. 8417). BUERGIN in his direct testimony spoke of assistance to the Eastern workers in order to alleviate their fate (Tr. 8418). This undeniably shows knowledge on the part of BUERGIN as to the involuntary nature of the work performed by Easterners. In proof of the adequate food allegedly given to the Eastern workers and to contradict the testimony of the prosecution witness Blandier (PE 1388), BUERGIN referred to the ration menus and cards (Tr. 8420). In this connection he referred to the ration scale for the workers. It is submitted that the testimony in this case has shown that there was

a vast difference between what the menu might show and what the workers actually received.

(26) In connection with PE 1399, a circular letter of the Farben Perschmann directed to all the plants of BUERGIN's Central Germany Combine concerning the cutting of rations of Eastern workers for disciplinary reasons (Tr. 8420), BUERGIN stated that he considered it impossible that they acted according to this and that technically it was impossible because the workers were fed at one time and together (Ibid). In another part of his testimony he stated that workers received basic food and a card for workers working long hours; in other words, they (foreigners) received more than the normal German would (Tr. 8425). The inconsistency of his testimony is therefore apparent because if it was possible to increase a worker's ration, obviously it was just as possible to decrease it. It is submitted that BUERGIN's testimony in respect to foreign workers receiving more food than normal German workers and that "the Germans naturally envied the foreigners because of this state of affairs" puts a large question mark upon the credibility of his testimony in general.

(27) BUERGIN's testimony on direct examination concerning the treatment (or mistreatment) of foreigners is interesting. He indicates the impossibility of mistreatment because of the supervision of such organizations as the DAF, the Trade Union inspections, the Kreis medical inspections, etc. PEs 2174, ~~2176 and 2178~~ which were introduced in rebuttal by the prosecution show that the inspections by such agencies as mentioned by BUERGIN found very adverse conditions obtaining in the foreign workers' camps in Bitterfeld such as inadequate treatment and segregation of the sick, incredible state of the lavatories and bathrooms, crowding, etc.

(28) BUERGIN indicated in his testimony that he was under great pressure to obtain manpower and to produce necessary chemicals in wartime (Tr. 8428). He later refuted the testimony of the French witness Balandier that French P.W.'s were employed at Bitterfeld in



the manufacture of war material (gun powder). Prosecution witness Balandier in his cross examination stated that several kinds of powders were manufactured, and that in the workshops with the electrodes a certain amount of chlorates were manufactured and that these chlorates were explosive powders. He further stated that he remembered this because the foreman always told him not to approach these powders with an open flame because they were explosive (Tr. 7958). Defendant BUEGIN's counsel in questioning BUEGIN on direct examination referred to the above Balandier testimony by stating that Balandier limited the statement in his affidavit by substituting chlorates for powder (Tr. 8430). This is an improper interpretation of what Balandier said, which can be seen from the record. BUEGIN after stating that chlorates could be used for, such as heads of matches, etc., also admitted that chlorate after it is prepared and processed in combination with carbon-containing substances can be converted into explosive substance (Tr. 8430). Balandier also stated on cross examination that he thought practically all that was produced in this factory (Bitterfeld) went directly to war material (Tr. 7958). It is submitted that defendant BUEGIN's testimony would indicate that the chlorate upon which the French P.W.'s work was at least an intermediate war material. The fact that in peacetime it could also be used for something else does not alter the fact that it is an armament product if, as an intermediate, it goes into an ultimate product which is used for waging war. It is significant that defendant BUEGIN did not deny Balandier's statement that production in the Bitterfeld factory went directly to war material, and it is likewise significant that BUEGIN did not specifically deny that the chlorate upon which the French P.W.'s worked did ultimately become gun powder (Tr. 8430). There is a manifest appearance of truth in Balandier's statement that he was warned by his foreman not to expose these powders to open flame because they were explosive (Tr. 7958).

(29) BUEGIN stated on examination in connection with the Easterners:

"One could not assume that they came voluntarily" (Tr. 8430).

BUEGIN in his testimony stated he had no influence at all on the allocation of workers from the Labor Office (Tr. 8431). He indicated that he was simply a passive recipient of the labor that was offered or assigned to him. Defendant BUEGIN's affiant, Dr. Karl Wagner, in BUEGIN Exh. 76 also stated that the I.G. could not decide as to which nationalities were allocated to them. ~~The evidence, however, shows that BUEGIN carried out recruiting measures himself in France (PE 8176).~~

(30) In connection with the barbed wire around the Eastern workers' camp, the testimony of BUEGIN is revealing. He stated that an order had come that the barbed wire was to be exchanged for other material. What the other material might have been was not stated.

BUEGIN stated that he told his architect to put a sign on the fence,

"That is no longer to be considered as barbed wire (Tr. 8459).

BUEGIN did not remember the occasion of a report to him as follows:

"On the night of 18 July a civilian Russian fleeing from the Russian camp was, after an oral warning, shot and fatally wounded by a plant guard" (PE 1963; Tr. 8460).

BUEGIN stated that he was not present in Bitterfeld on the occasion of the hanging of five Russians (Tr. 8461). This was reported to him by Bitterfeld's Dr. Lang on the 14th of July 1944 (1960).

#### d. COUNT V - CONSPIRACY

(31) The comments made in the individual brief of the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant BUEGIN.

5. Proposed Findings of Fact with Respect to the Guilt of ERNST BUEGIN. The evidence has established beyond a reasonable doubt, the guilt of the defendant Ernst BUEGIN on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant BUEGIN under each of these Counts, is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of BUERGIN, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) BUERGIN's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1938 to 1945; as a member of the Technical Committee (TEA) from 1938 to 1945; as Deputy Chief of the Works Combine Central Germany from 1935 to 1937 and Chief of this Works Combine from 1938 to 1945.

(b) BUERGIN's activities in other positions, including his activities as adviser to Krauch in his Office for Raw Materials and Synthetics of the Four Year Plan; as Chairman of the Technical Committee for Soda, caustic alkalines, chlorine, hydrochloric acid, etc. of the Economic Group Chemistry; as KRAUCH's technical expert in the above fields of the office of Plenipotentiary General for special questions of chemical production.

(c) BUERGIN's activities carried on through the instrumentality of Farben and through his other positions, included:

(1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. BUERGIN participated in these activities knowing that he was participating in preparation for aggression and that Germany's



military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. BUEGIN knew this for a number of reasons:

(a) BUEGIN knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to BUEGIN that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in BUEGIN's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried out by BUEGIN and the timing of such activities, establish that BUEGIN knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by BUEGIN, at which the aims of the Nazi leaders were expressed, and BUEGIN's own statements on various occasions, are sufficient in and of themselves to establish that BUEGIN had the required state of mind.

(e) BUEGIN's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to BUEGIN; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, BUEGIN knew that Germany's power was being, and would continue to be, so used.

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3. The alleged defense of duress or coercion is not available to the defendant BUERGIN.

(a) As a matter of Law, even if the facts established that BUERGIN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that BUERGIN acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant BUERGIN knowingly participated in plans to spoliates, and in spoliating, the chemical industries of occupied countries.

2. BUERGIN bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. BUERGIN played an especially active role in the plunder and spoliation of property in Norway and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant BUERGIN.

(a) As a matter of Law, even if the facts established that BUERGIN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that BUERGIN acted under duress or coercion in carrying out any of the activities specified above.

#### Count III (Sections A and C)

1. BUERGIN knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration

camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. BUERGIN took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of BUERGIN were, to BUERGIN's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. BUERGIN continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

6. The alleged defense of duress or coercion is not available to the defendant BUERGIN.

(a) As a matter of Law, even if the facts established that BUERGIN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that BUERGIN acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. BUERGIN participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. BUERGIN knew that human beings in concentration camps were being exterminated by gassing.



4. BUEGIN either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

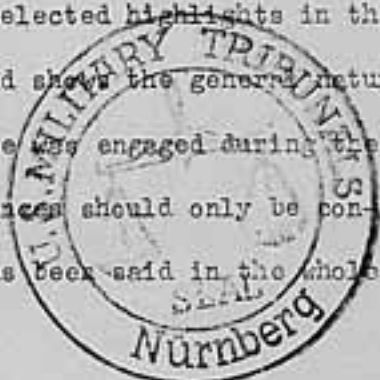
1. The foregoing activities were engaged in by the defendant BUEGIN in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.

2. The defendant BUEGIN, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.

1. Charges in the Indictment. The defendant BUEHNER is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation constituting War Crimes), Count III (Slave Labor Constituting War Crimes and Crimes against Humanity), Count IV (Membership in the SS, an organization declared to be criminal by the International Military Tribunal and Control Council Law No 10), and Count V (Conspiracy to Commit Crimes against Peace). The defendant took the stand on his own behalf (Tr. 8606, et seq.).

2. General Nature of the Evidence Supporting these Charges. BUEHNER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, BUEHNER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant BUEHNER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant BUEHNER sets forth certain selected highlights in the activities of the defendant BUEHNER and shows the general nature of the broad field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole



of this Final Brief together with the Preliminary Memorandum Brief.

3. BUSTEFISCH's Position From 1933 to 1945: The positions which BUSTEFISCH held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in Prosecution Exhibits # 285 and 286 (see also testimony of BUSTEFISCH on direct examination, Tr. 8606 and following). The following positions held by BUSTEFISCH during these years are of special significance:

(a) BUSTEFISCH was a member of the Vorstand from 1934 to 1945.

(b) BUSTEFISCH was a member of the Technical Committee from 1932 to 1945.

(c) BUSTEFISCH was Technical Chief of the Leuna Works from 1931 to 1945.

(d) BUSTEFISCH was deputy chief of Sparte I from 1933 to 1945.

(e) BUSTEFISCH was advisor to KRAUCH on the Four Year Plan from 1936 to 1945.

(f) BUSTEFISCH became a member of the DAF (German Labor Front) in 1934; a member of the NSFK (Nazi Flying Corps) in 1935; a member of the NSDAP in 1938; and Obersturmfuehrer in the SS in 1939 (promoted to Obersturmbannfuehrer in 1942).

(g) BUSTEFISCH became a Military Economic Leader in 1939.

(h) BUSTEFISCH was a member and frequently chairman of a number of governmental bodies and committees especially those dealing with synthetic oil and nitrogen.

(i) BUSTEFISCH was a member of the Aufsichtsrat, Vorstand, Verwaltungsrat of a number of companies including Continental Oil A.G.; Brabag; Fuerstengrube (Poland); Donau Chemie (Austria); DAG (Czechoslovakia); and companies in Yugoslavia, Roumania and Hungary.



4. Certain Specific Activities of BUETEFISCH During the Period 1933 to 1945. To place the specific activities outlined below in fuller context with the progression of events in Hitler's Germany and in Farben, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual brief with the year-by-year narrative under "B - CARL KRAUCH", above. Special reference is also made to the section of this Brief on the defendant SCHNEIDER (Part VI - K), since SCHNEIDER was chief of Sparte I whilst BUETEFISCH was deputy chief.

a. COURT I - CRIMES AGAINST THE PEACE

(1) As the Technical Chief of the Farben Leuna Works from 1931 to 1945, BUETEFISCH played a leading role in the development and production of synthetic oil, synthetic nitrogen and synthetic methanol (PE 285; Tr. 8623 and following). The part which Farben's Leuna Works played for twenty-five years in "insuring the resurrection of the German people from a military point of view" is set forth in the printed record of Farben's Leuna Works entitled "25 Years Leuna Works" (PE 1977). This document tells of the history of the Leuna Works during World War I as well as the part which it played in preparing Germany for World War II. The use of 1/2 of Leuna's nitrogen for the "powder program" from World War I is set forth. This report states that Bosch and KRAUCH knew that haste in the synthetic fuel program was necessary from a historical point of view. It also gives a background of the visit of BUETEFISCH and GATTINEAU to Hitler in June 1932. According to BUETEFISCH, Hitler said "I have to leave the technical execution in your hands. That is your job, but our road is the same and I hope that soon this road will lead to tremendous strengthening of our Germany". After the visit to Hitler the report concludes "Now the leading men in I.G. made the important decision to maintain Leuna in full operation even if this entails sacrifice" (PE 1977 supra). On cross-examination the defendant BUETEFISCH when shown this document attempted to minimize its meaning by suggesting that the writer of the article

had greatly exaggerated certain points (Tr. 8885-8889). On re-cross examination however, the defendant BUEPFISCH was forced to admit that the booklet "had been bound in our printing shop and it was bound and printed there" (Tr. 8940). Also bearing on the visit of BUEPFISCH and GATTINEAU to Hitler in 1932 to "clarify the position of the Nazi Party regarding the German gasoline production" see PE's 28, 29 and 30.

(2) As a result of this visit of BUEPFISCH to Hitler in 1932, Farben decided to maintain Leuna in operation (PE 1977) after it had sustained heavy losses (see Part II). After the seizure of power began discussions in 1933 with Nazi government officials concerning the production of synthetic gasoline. KRAUCH, to whom BUEPFISCH reported after visiting Hitler, held discussions with leading Nazi officials with respect to this matter (see section on KRAUCH). In the Spring of 1933, Farben started large scale production of synthetic gasoline at Leuna (PEs 541, 542); and in 1933 Farben started conferring with the Luftwaffe to develop high-grade aviation gasoline for military aircraft (PEs 523, 525, 534, 536); which fuels and lubricants differ from those useful in peacetime (Tr. 1362 to 1364; PEs 516 and 523). In a speech which the defendant BUEPFISCH made in March 1938 at a celebration held at Leuna on the seizure of power by the Nazis (printed in "Von Werk zu Werk"), BUEPFISCH said that he would never forget the day in 1933 when he got the word from Berlin to expand with all possible energy the production of gasoline (PE 514). The report entitled "25 Years Leuna Works" which was printed in 1941 quotes BUEPFISCH as saying: "for years I had to keep to myself the prospect which the Fuehrer held out and detailed at that time. Already then they covered the whole program of the Four Year Plan. In later years nothing was changed in the basic outline which was shown at that time. We drove back proudly conscious of having been given deep insight into history in the making and having had confirmation from the future leader of the German people that our aims were right and our work

of the greatest importance." In December 1933, the gasoline agreement between Farben and the Reich was signed with the approval of Hitler (PEs 92 and 94). It is clear that already in 1933 production of synthetic gasoline as well as the production of synthetic nitrogen was considered in the light of preparations for "A-Fall" (PEs 90, 91 and 404).

(3) At the same time that Farben made its deal with the Nazi Government concerning production of synthetic gasoline, Farben began negotiating concerning production of synthetic rubber (KRAUCH section); and began supporting the Nazi Party financially (KRAUCH section); and in matters such as the hiring and training of employees, Farben followed the Nazi Party aims wholeheartedly (KRAUCH section). BUEDEFISCH does not deny his knowledge of these matters (Tr. 8635). In fact, from 1934 on, BUEDEFISCH states that he attended the TGA meetings and the Vorstand meetings regularly (Tr. 8609), where such matters were discussed. For specific examples of the meetings of the Working Committee of the Vorstand, attended by BUEDEFISCH, which approved contributions to the Adolf Hitler Fund, see PEs 78 and 79. Copies of reports concerning air raid measures were regularly sent to the Leuna Works (PEs 174 and 178).

(4) A conference was held in 1934 between General Bockelberg of the Wehrmacht, and a representative of Farben. BUEDEFISCH reported on the technical production of gasoline and other products at Horseburg. The needs of aviation were especially dealt with. It was agreed that Dr. Maeder of the Junkers Dessau would communicate with BUEDEFISCH in this connection. It was decided that air raid precautionary measures should be taken into account in the erection of the works. The directions of Farben were to be carried out in erecting the plant. It was agreed that Bockelberg and KRAUCH would communicate with Schacht on the whole matter (PE 517).

(5) In January 1935, the first oil conference was held at Ludwigshafen with BUEDEFISCH, KRAUCH, TER MEER, JAEHNE, SCHNEIDER, KUEHNE, and AMBROS present. The formation of Brabag, among other



things, was discussed, the purpose of Brabag being to produce fuel and lubricants by making use of soft coal, and to set up such plants as was suitable for this purpose. The report on the establishment of Brabag and its relation to Farben was made by BUEHRTSCH (PE 518). In June 1935, the license agreement between Farben and Brabag was signed on behalf of Farben by BUEHRTSCH; with KRAUCH being one of the signers on behalf of Brabag (PE 521). In October 1935, the Ammonia Werke at Merseburg sent a letter to the Reich War Minister and the Supreme Commander of the Wehrmacht, regarding the installation of a bomb-proof gasoline storage tank, and enclosing details of the project (PE 747). In this same month, October 1935, Klemm, Chief of the Economic Group Chemical Industry, requested the Reich Chamber of Commerce to promulgate a decree exempting from tax the turn-over (i.e. sales) of various kinds of oil in the interest of "political economy and military policy" (PE 525); (Tr. 8709, 8710). From 1935 on, regular conferences took place between the Leuna Works and the Wehrmacht concerning the development of important military products; preparations for war; and measures at Leuna which would have to be taken in case of war to increase production, personnel problems, problems with respect to traffic and transport, air raid protection measures, etc. The witness Ruther, the Second Directorate Secretary to BUEHRTSCH at Leuna, has stated, "the reconstituting of the German Wehrmacht made it clear to us at Leuna that the course pursued by Hitler had to lead to war \* \* \* we were aware of the purpose of this rapid development, the enormous expansion of hydrogenation, the increased production of intermediates important in war, the furtherance of new synthesis and hydrogenation works, the working out of shift schedules, etc." (PE 258). BUEHRTSCH himself stated in an affidavit "in 1935 or 1936, it was obvious that the aim of the National Socialist economic and military policy was to establish as completely as possible a state of self-sufficiency in Germany. Since the German march into Czechoslovakia, that is since March 1939, it was clear that the mil-

itary economy could be aiming at development into an aggressive war. Without I.G. Farben, especially without the I.G. production in the fields of synthetic rubber, gasoline, and magnesium, it would have been out of the question for Germany to carry on a war." (PEs 251 and 29); (Tr. 8713 and 8715). The year 1935 saw continued negotiations between Farben and the Nazi Government, with respect to the production of synthetic gasoline (KRAUCH section). In June 1935, a conference was held between representatives of Farben, Army Ordnance, and the Reich Air Ministry, concerning the production of iso-octane, a super aviation gasoline. It was agreed that Farben would push the production of iso-octane, and that the Reich Air Ministry would decide what quantity they needed of this special aviation fuel. It was stated that "rejection of these processes due to the fact that they are uneconomical cannot be a primary consideration for the purposes of the Reich Air Ministry." At this conference, it was also stated that "the I.G. is bound by contract to an extensive exchange of experience with Standard. This position seems untenable as far as development work which is being carried out for the Reich Air Ministry is concerned." (PE 523; Tr. 1117). In 1935 Farben in close cooperation with the DAG and the Army Ordnance, on its own initiative, conducted experiments concerning Hexogene (PEs 110, 111). Hexogene is a very high explosive, having no substantial peacetime use (Tr. 1091, 1093, 1376), and is made from synthetic methanol and synthetic ammonia (PE 616; Tr. 2643).

(5) The year 1935 was a crucial one in the field of synthetic oil production, as in other fields. (KRAUCH section). On 20 May 1935, Ungewitter, as Manager of the Economic Group Chemical Industry, sent a letter to the Reich Economic Ministry concerning the exceptional treatment of mineral oil with respect to the tax for the promotion of export. In this letter he stated that "the aim of the National Socialist economic and military policy is that self-supply be extended as far as possible as regards motor fuel" (PE 523; Tr. 8709-8710). At Goering's crucial meeting of 20 May 1935, attended by the defendant SCHLITZ, Goering emphasized the

dependence of the Army and Navy on oil. It was pointed out that the waging of war depended on the oil program (PE 400; see also testimony of KRAUCH, Tr. 5443-5444). In July 1936, shortly after KRAUCH was put at Goering's disposal by Farben as the key figure in the Department of Research and Development, KRAUCH called for a report from Farben and its contracts with the Reich, including Farben's Leuna contract during World War I (PE 679). In this same month, July 1936, Hitler outlined to Goering the basis of the Four Year Plan to prepare for war within four years (PE 411). In September 1936, the aviation gasoline contract with Ammonia Werke Merseburg was concluded, with the defendant BUEDEFISCH signing on behalf of Ammonia Werke Merseburg. The Reich Air Minister and the Minister of War were especially concerned (PE 528). In October 1936, a conference on the oil program of the Government was held at the Farben Building in Berlin, with representatives of the Raw Materials Staff, BUEDEFISCH, and representatives of other firms present. During the conference, BUEDEFISCH made certain statements concerning the distillation program, pointing out that it was now being investigated whether the quantities of fuel oil required in the event of mobilization could not be simply secured by keeping plants presently out of operation as stand-by plants ready for production. BUEDEFISCH made his comments after a statement by Fischer that "the total plan is not adjusted to meeting peacetime requirements, but to the requirements in case of mobilization." The construction of new synthetic gasoline plants was discussed. To assure rapid progress, committees were appointed, with BUEDEFISCH on the main committee (PE 414; Tr. 8695). In December 1936 at a conference with Keppler, Hitler's Economic Advisor, BUEDEFISCH "of the Office for German Raw Materials and Synthetics" reported on further planned oil works (PE 409; Tr. 8694).

(7) In 1936, the question of mobilization for war and production in case of war was discussed continuously within Farben (KRAUCH section). For synthetic gasoline at Leuna, BUEDEFISCH was in



charge of MOB plans (PE 29). In February 1936, Sparte I, through the VM, wrote to the Reich War Ministry concerning the construction of a stand-by plant for the production of concentrated nitric acid (PE 112). In March 1936, map exercises and war games were conducted on a large scale in most important Farben plants (PEs 102, 103). In the year 1936 a tetra ethyl lead plant was built at Gapel (PEs 144, 715). In this same year, Farben purchased 20,000,000 dollars worth of gasoline from Standard Oil in order to build up gas stocks for the Luftwaffe (PEs 731, 994; Tr. 8712). In September there were discussions between the military authorities and Sparte I concerning chlorine for Case A and increased Phosgene production (PE 114). In September 1936 at a secret meeting, Goering read Hitler's memorandum concerning the Four Year Plan, stating that all measures must be taken "as though we were in imminent danger of war." (PE 412). In December 1936 Goering made his famous speech before the most important German industrialists, at which the defendants KRAUCH and VON SCHNITZLER were present. He outlined the purpose of the Four Year Plan, stating in part, "we are already on the threshold of mobilization and we are already at war, all that is lacking is the actual shooting." (PE 421). KRAUCH testified that this meeting was not a secret meeting (Tr. 5138).

(8) Farben's financial support of the Nazi Government kept pace with its direct military support (SCHMITZ section). In January 1937, at a meeting of the Vorstand Working Committee, with BUDTFISCH present, SCHMITZ submitted to the committee a list of annual contributions to German houses and schools in various countries (PE 796). In February 1937, Sparte I sent a report to the TRA Bureau, listing the credits of Sparte I connected with the Four Year Plan. These were classified on the basis of plants installed by direct order of a Reich office, and plants installed without direct order, but operating within the scope of the Four Year Plan. After listing the plants operating within the Four Year Plan, reference is also made to "plants which are working for re-

armament, and industrial air raid protection insofar as they are not included" in the plants listed under the Four Year Plan. As an example, nitric acid is cited (PE 680). In March 1937, Klemm of the Economic Group Chemical Industry sent a letter to the Reich Economic Minister requesting a reduction of taxes for the chemical industry. In this regard, Klemm states that "what I have written above about the chemical industry in general refers to I.G. Farben to a greater extent, as that firm in particular is especially charged with the tasks of the Four Year Plan." (PE 527; Tr. 8709, 8710; see Part II) In a letter from Wifo to DAG concerning the extension of a concentrated sulphuric acid plant, it is stated that the new plant is "for the purpose of the Wehrmacht exclusively, i.e., for the A-Fall" (PE 605). Correspondence between the Ministry of Economics and OKW in September 1937, concerning the operation of the nitric acid plant at Melbeck, indicated that the commencement of operations "in peace-time" by arrangements with Farben was being discussed, the purpose being to try to get the Melbeck plant in operation so that it would be ready "when mobilization begins." Other plants presently operating would be temporarily closed down. These arrangements were all "for the sake of guaranteeing preparedness for mobilization." (PE 603). In December 1937, a nitrogen conference was held at Leuna with BUSTEFISCH present. The increase in the production of nitrogen in 1937, as compared with 1936, was discussed. (PE 127). Other activities of Sparte I during 1937 are summarized in the KRAUCH Brief (pp. 14, 15).

(9) On 11 March 1938, the Commercial Committee of Farben held a meeting attended by SCHMITZ, VON SCHMITZLER, HAEFLIGER, ILGNER, and HANN, at which time mobilization plans were discussed (PEs 250, 892). At this meeting, news was received that mobilization in Bavaria was in full swing. The defendant HAEFLIGER states "we were uncertain whether simultaneously with the march into Austria, which to us was already an established fact, there would not also take place the 'short trust' into Czechoslovakia, with all the international implic-

ations which would be kindled by it" (PE 893). On 12 April 1938, at a meeting of the Military Economy Inspection Division, BUEPFISCH reported on Farben's plans for a hydrogenation and nitrogen plant in Austria. According to a secret memorandum of this conference, it was stated that "from a military angle, only the neighborhood of Wolfseck (Traun Valley) can be considered." (PE 1074; Tr. 8715). By April 1938, KRAUCH's office had worked out a program for assuring mobilization provisioning by stock-piling (PE 718). The storing of gasoline and oil was handled directly by BUEPFISCH (PE 29, 735). In May 1938, a conference attended by local military and Reich officials was held at the Leuna Plant to discuss problems relating to mobilization tasks, including securing of personnel, living quarters, traffic problems, security measures, etc. (PE 214). In June 1938, the Vorstand gave a commission to BUEPFISCH and KUEHN dealing with the treatment of "technical problems in Austria" (PE 894). In June 1938, Farben concluded a contract with Wifo concerning the construction of a plant for the production of tetra ethyl lead (PE 538; Tr. 8686). In July 1938, Farben negotiated with the Ethyl Lead Export Corporation for the "borrowing" of 500 tons of tetra ethyl lead (PEs 732, 733; Tr. 8712). On 21 September 1938, the Vorstand was advised by the Commercial Committee of the details of the chemical plants in Czechoslovakia (PE 1043). In September, Farben plants were advised through the VW concerning deliveries in case of mobilization because of transportation bottlenecks. Detailed provisions were set forth concerning transportation problems in the event of war. It was stated that appropriate forms should be submitted to KRAUCH's office as soon as possible (PE 224). For other activities of Farben immediately proceeding the invasion of the Sudetenland on 1 October 1938, see KRAUCH section and THE MEER section). In October 1938 the staffing of the Aufsichtsrat and the Vorstand of Donau-Chemie in Austria was discussed. It was suggested that the commission given to KUEHN and BUEPFISCH by the Vorstand concerning problems in Austria should be combined with the commission



given ILGNER concerning the general commercial problems in Austria and the Southeast, so that Donau-Chemie with the assistance of Farben would be responsible for all general problems in Southeast Europe of interest to Farben (PE 894). As we have seen, BUEFISCH was a member of the Aufsichtsrat of Donau-Chemie. A memorandum dated in November 1938, indicated that the Malbeck plant for concentrated nitric acid was being operated by Farben (PE 604). On 20 December 1938, Hitler sent a personal letter granting reprieve to the defendant BUEFISCH in order that he might become a member of the Nazi Party in spite of previous membership in a Masonic lodge (PE 1972).

(10) In January 1939, the Office of Military Economy in a report on KRAUCH's mineral oil program stated that mineral oil was just as important for warfare as aircraft, tanks, ships, arms and munitions (PE 537); and in a report to Goering on the aims and demands of the mineral oil project in the same month the necessity is stated for giving the mineral oil expansion top priority in the rearmament program (PE 538). In April 1939 the OKW sent a letter to BUEFISCH stressing the necessity that the armed forces be able to examine all know-how sent abroad (PE 971; Tr. 8735). At a meeting of the TFA Bureau in May 1939, it was announced that SCHNEIDER would act as Deputy for KRAUCH as head of Sparte I since KRAUCH's activities in the Reich Office for Economic Development took up so much of his time (PE 456). In June 1939 the V/W sent a letter to von KERNER with a copy to Sparte I inclosing a report on the research and development work of Farben done on Wehrmacht orders or in conjunction with the Wehrmacht (PE 166). In July 1939, the V/W sent a letter to the various Farben plants, including the Leuna Works (with a copy to the Office of Sparte I), concerning the supplying of the armament industry with fuel in case of mobilization. The letter is dated 12 July and it is requested that because of the urgency of the matter an answer should be given not later than 20 July (PE 233). In July 1939 Diekmann of Sparte I in the Office of the V/W sent a

letter to the Reich Air Ministry concerning the trip of certain Farben representatives to the U.S. in connection with the exchange of information with American oil firms. It was indicated that the persons sent to the U.S. would attempt to get information on various processes and at the same time would "keep silence" about fuel and lubricant matters requiring secrecy (PE 972; Tr. 8735 and following). This program of Farben to obtain as much information as possible from foreign countries and at the same time to give nothing in order that Germany's military might vis-a-vis such countries would be thereby strengthened is well summarized in correspondence between BUEDEFISCH and the OKW in January 1940, concerning the exchange of experience with foreign countries in connection with synthetic gasoline. A memorandum prepared by BUEDEFISCH for the OKW in January 1940, explains that "up to now we have carried this exchange of know-how out in such a way that from our side we have only sent reports which seemed unobjectionable to us after consultation with the OKW and the Reich Ministry of Economics and which contained only such technical data as concerned facts which are known or out of date." Goering and General Thomas initialed a note on the memorandum which stated that BUEDEFISCH bore responsibility that nothing of importance to "military or defense policy" gets out (PE 958; Tr. 8738). What Farben gained for Germany's war effort from the U.S. and the way in which Farben's activities misled American firms and retarded the development and production of strategic materials in the U.S. is well summarized in a memorandum prepared by Farben scientists in 1944 and sent by von KNIERIM to BUEDEFISCH among others (PE 994; Tr. 8741).

(11) In August 1939, the Vorstand approved a contribution of 50 thousand Reichmarks for the mobilization of the National Socialist Air Corps (PE 1047). On 25 August 1939 the Frankfurt office recalled its employees from England (Tr. 12134) because "a crisis was imminent". On 28 August 1939 the V/W notified Farben plants

that its offices could be reached by telephone and teletype on a twenty-four hour basis and pointed out that the teletype was to be used in preference to anything else because of speed in transmission (PE 262). BUETEFISCH states that on 28 or 29 August 1939 SCHNEIDER, as plant leader of Leuna Works, called a meeting of department chiefs and informed them about the order for mobilization. SCHNEIDER closed the discussion with these words "this is war" (PE 261; Tr. 8713-8715). When the war with Great Britain and France broke out on 3 September 1939, Farben needed only a simple telegram from the V/W requesting that "all I.G. plants to switch at once to the production outlined in the mobilization program" (PE 266). Shortly after the outbreak of war in September 1939, conferences were held at the Hague between representatives of Farben and Standard Oil (of which BUETEFISCH was informed) concerning the transfer of patents relating to synthetic oil, buna, etc., for the purpose of protecting them from seizure from enemy countries and from seizure by the U.S. in the event of war between Germany and the U.S. (PEs 973, 975, 977, 978, 980; Tr. 8737). In 1939 BUETEFISCH became Obersturmfuehrer in the SS (PEs 285 and 286). In an affidavit signed in 1947 BUETEFISCH states "I am now of the opinion that I owe my invitation to join the Circle of Friends and my promotions in the SS solely to the fact that the SS intended in this way to create even closer ties between itself and I.G." (PE 1976; Tr. 8878).

(12) Throughout this period, while Germany was preparing for aggression, BUETEFISCH played a leading role in maintaining and promoting cooperation between Farben and the Nazi Government. BUETEFISCH was an advisor to KRAUCH; was one of the Farben officials who maintained contact with the various committees of the Reich Group Industry; was a Section Chief in the Armament Ministry and maintained contact with the Reich Ministry of Armament and Munitions; was a member of the SS and a member of the Himmler Circle (PEs 377 and 512). Not only did BUETEFISCH play a dominant role in



fields such as synthetic gasoline and synthetic nitrogen, and methanol, but as a member of the TEA from 1932 on, and as a member of the Vorstand from 1934 on, he was kept informed of, and authorized or approved, all major activities of Farben. HUBERFISCH has stated that from 1934 on, he regularly attended meetings of the TEA, and from 1934 on attended meetings of the Vorstand Working Committee (Tr. 8609). The defendant HUBERFISCH has given the following explanation of the way in which the "technical men" of Farben kept themselves informed as to what was going on within the various plants of Farben. He states:

"A. If the individual plants and forms of production had had no connection then their incorporation into I.G. Farben industry would have had no purpose. Then it would not have been a community of interests. What does the name 'community of interests' mean? I personally hold the point of view that this community of interests was in the technical field. Of course the foundation of such a concern is the individual plants. They have to be developed and they have to produce, but within Farben it was so that these plants and departments heard what was being done in the other plants. They heard that in the many technical commissions, which Dr. Ter Meer has mentioned where the technical men from the various plants met. There were solvent committees, and so forth. And every plant heard and knew about these commissions they said: 'I am interested in these products. We will send some men to inform themselves.'

\* \* \* \*

"And now, for example, Leuna came into the picture and said: 'Raw materials for production of plastics or detergents? We produce them in such a way and for such and such a price. So on this level there was an exchange of technical experience within Farben.'

The technical management — and I should like to include myself in Leuna — received knowledge of such matters. I had to study such questions, and in the last analysis I had to decide, together with my colleagues: We can supply this raw material; we can produce this product, or that product. In this way the individual men within the concern became more or less specialists in their fields, and that is the essential point.

\* \* \* \*

"One therefore had the certainty that what one did was carefully checked from all aspects so that it was in order. In my opinion that is the essential point of the organization considered from the point of view of a technical who is responsible for his field within Farben.

\* \* \* \*

"A. For the Technical Committee the credits were presented after, as I have described, they had been thoroughly checked. This also explains the fact that there were very few, or almost no, objections on the record because everyone on the Technical Committee knew that these matters had been taken care of."  
(Tr 8612 - 8614).

(13) The location and production program of the synthetic oil plants which were constructed during this period, were chosen from the outset with a view to decentralizing production and safeguarding such production in the event of war (PE 678). The tremendous increase in new plants constructed and operated by Farben in preparation for war is revealed in the minutes of a Vorstand meeting, stating that Farben's new construction costs from 1932 to 1941 amounted to two billion Reichmarks (PE 636). In July 1940, BUSTEFISCH received a copy of a confidential report concerning the services rendered by Chemistry in the United States to Farben and the German war effort (PE 898).

#### THE WAR YEARS

(14) After 1 September 1939, BUSTEFISCH continued to play a leading role in the German war effort, from his participation in a major way in the aggressive wars being waged, knowing that their purpose was conquest. His activities were indispensable to the waging of these aggressive wars and the preparation for new acts of aggression. In addition to his activities in creating and equipping the Nazi military machine for aggressive war, in what might be called the field of production, BUSTEFISCH also participated in the initiation, preparation, and waging of aggressive wars, through his participation in the spoliation activities charged in Count II of the indictment, and in the Slave Labor activities set forth in Count III of the indictment.

#### b. COUNT II - PLUNDER AND SPOILIATION

(15) As a member of the Vorstand and of the Technical Committee the defendant BUSTEFISCH participated in, approved and ratified all of Farben's spoliative activities in the occupied countries. The paragraphs below are merely illustrative of his involvement.

#### Poland

(16) Though not a member of the Commercial Committee, defendant BUEFISCH attended its meeting of 20 October 1939 where Farben's spoliative plans in Poland were being discussed. It was also stated there that "Farben takes a positive attitude as to collaboration with the Hermann Goering Works. Dr. BUEFISCH will see Herr Pleiger within the next few days ... and will avail himself of the opportunity to express Farben's preparedness, on principle, to cooperate" (PE 1133). At the Vorstand meeting of 8 November 1939, BUEFISCH joined BUERGIN and WURSTER in reporting on different aspects of Polish industry in which Farben was interested (PE 2120). These minutes of this Vorstand meeting show Farben's concentrated efforts to participate in the "distribution" of Polish industrial property.

#### France (Alsace-Lorraine)

(17) BUEFISCH was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine: Strasbourg, Merlebach and Diedenhofen (PE 2192).

#### France (Francolor)

(18) As member of the Farben Vorstand, he received the minutes of Farben's first meeting with the French industrialists in Wiesbaden on 21/22 November 1940 (PE 2195). He also attended the Vorstand meeting of 10 July 1941 where VON SCHNITZLER "gave a report on the negotiations which had been successfully concluded with respect to Francolor" (PE 1177). As a member of Farben's TLA (Technical Committee) from 1932 to 1945 (PE 285), he also attended the TLA meeting of 17 December 1940 where TER MEER, speaking of Francolor, reported that

"an agreement was reached with the French dyestuff group whereby we are assured of decisive influence on French dyestuff production" (PE 345).

#### France (Rhône-Poulenc)

(19) BUEFISCH also attended the Vorstand meeting of 12 December 1940 where defendant MANN reported on the license agreement



with Rhone-Poulenc which was contemplated (and later on concluded) for a 50 years' period, and where KAHN also stated:

"In addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital" (PE 1270).

The Vorstand members present, among them defendant BUEFELISCH, "agreed to this line of action" (PE 1270).

(20) As to Norway, see PE 1193.

#### Soviet Russia

(21) The prosecution has shown that, generally, spoliation in Soviet Russia on the side of the German industrialists involved did not go beyond the stage of planning though such planning was done on an unparalleled scale. To the extent, however, that Continental Oil is concerned, its activities amounted to accomplished spoliation in many countries, among them Soviet Russia. Defendants BUEFELISCH and KRAUCH were members of the Supervisory Board of the Continental Oil Co. since it was organized in March 1941. They are, therefore, more actively involved in this case of spoliation than other members of the Farben Vorstand. Reference is made to our Preliminary Memorandum Brief, Part II, Para 15. In view of the documents and affidavits submitted by defendant BUEFELISCH, we propose to briefly redevelop

(A) the spoliative activities of Continental Oil;

(B) defendant BUEFELISCH's part therein.

(22) As to (A): When finding Funk guilty of spoliation, the IMT (Vol. I, p. 306) pointed to Funk's participation "in the economic exploitation of occupied territories. He was President of the Continental Oil Company which was charged with the exploitation of the oil resources of occupied territories in the East". One of the documents which formed the basis of the IMT finding, namely Goering's directives of 18 November 1941, has also been submitted by the prosecution in this case: PE 1171, and Schlotterer's authentication, PE 1172. Under said Goering directive, "the Russian mineral oil industry must be permanently managed solely in accordance with the interests of the Reich. The exclusive right to operate the mineral oil industry in the recently

occupied Eastern territories has, therefore, been permanently bestowed on the Continental Oil ..." (PE 1171, P. 15). That these criminal plans materialized to the full, is shown, e.g., by the minutes of the Supervisory Board meeting of 13 January 1942 (PE 1567) which was attended by defendant BUEFISCH in his capacity as member of said Board. Dr. Fischer, according to the minutes, "reported on the taking over of the Russian mineral oil industry". In the discussion that followed, the question was taken up as to what measures "however drastic they may have to be" were to be adopted in this connection. The spoliative scheme and planning are fully revealed by the memo on the "Structure of the Continental Oil Company" which is enclosed with these minutes (PE 1567, p. 3). Particular fields of plunder are being covered. Distinguishing the Continental Oil from other newly organized Eastern "Monopoly" Corporations, the report says:

"In contrast to other monopoly companies which acted as temporary trustees for the firms taken over by them and which would be dissolved again after the end of the war, the Continental Oil (Kontinental) is operating the installations serving the mineral oil industry in the Russian territories on its own account and at its own risk; the company pays rent for this to the German Reich until such time as it will acquire these installations by purchase" (PE 1567, p. 4).

It appears from PE 1983 that, in France alone, parts of refineries in the amount of approximately 12 million Reichsmark were seized and removed from France (p. 3). Shares of Roumanian oil companies (Forck and Moldonaphta) "which were acquired by the Reich", were also amalgamated with Continental Oil or its subsidiaries (p. 4). Another affiliate of Continental Oil, the Carpathian Oil A.G., "has taken over the management of the plants (in East and West Galicia) on a trustees basis" (p. 4). The Continental Oil Transport Corporation, again an affiliate, "has continued its work according to schedule, in particular the marshaling of captured Russian tank cars" (p. 5). This last document (PE 1983) was a report submitted to all members of the Supervisory Board, among them defendant BUEFISCH.

(23) While the defendants, among them BUEFISCH, have not, as

a rule, contested in their testimony that Continental Oil was engaging in large-scale plunder, BUDTEFISCH submitted a few affidavits, particularly BUDTEFISCH Exh. 278 and 279 to show that no such plunder was committed. In fact, however, just these two documents confirm the charges made by the prosecution. Affiant Diehlmann, manager of the export promotion department of Farben's Berlin NW 7 office, who was also Prokurist, with the title of director of Continental Oil, confirms that the equipment was taken out of France, but alleges (without submitting any proof therefor) that the French owners were promised indemnification in kind for the time after the war. In fact, the Hague Convention does not sanction the wholesale removal of industrial equipment from occupied territory even if such indemnification is planned or promised. It also appears from Diehlmann's affidavit that the Russian tank cars robbed in Russia were shipped to Germany, and have been operating there ever since (last paragraph of this affidavit). Though repeatedly using the clause "As far as I know", he states that the cars, "at a later date", were "paid for by the Continental Oil Company". Even though payment would be no excuse, Diehlmann fails to state to whom the alleged payment ("as far as I know") was made. Certainly not to what Farben (PE 1177) and the Nazi government, at the time, called "the former Soviet Union". Payments, if any, made by Nazi agencies and industrialists as among each other do not change the spoliative character of the act with respect to the occupied country.

(24) As to (B): As to the part played by defendant BUDTEFISCH personally, he endeavored to show that he entered the Supervisory Board of Continental Oil at the request of Goering, and that, as a member of the Board, he had virtually no say in this matter (Tr. 8844; BUDTEFISCH Exh. 180). He has not, however, shown that any pressure was used against him in order to procure his Board membership. He has also admitted that he declared his willingness to cooperate in technical matters by telling Continental Oil: "If you have any technical questions, come to me with it" (Tr. 8908). That



is not the attitude shown by a man to whom the manifestly criminal purpose (PEs 1171, 1567) of a corporation is really repugnant. As a matter of fact, he not only was a member of the Supervisory Board, but also the Chairman of Continental Oil's "Chemical Technical Advisory Council" (PE 1981). While he first seemed to deny the fact of such chairmanship (Tr. 8903), he then introduced affidavits under which "the nominations to this advisory board were more of a complimentary gesture on the part of the Continental Oil for the firms which were represented by these gentlemen" (Winkler affidavit, BUETEFISCH Exh. 280); or, under another version, that he was appointed "because he was known as one of the leading experts in technical questions in the field of mineral oils" (Hlewsing affidavit, BUETEFISCH Exh. 281). However this may be, the fact remains that he was appointed, that he accepted the chairmanship, and that he carried on correspondence in this very capacity (PE 1981).

(25) BUETEFISCH not only tried to minimize his own position in Continental Oil but also the importance of Farben's participation therein. To this end, he denied that one of the leading men in the Continental Oil, Dr. E.R. Fischer (PE 1565, p. 5, A, No. 10; and p. 5, B, No. 3) had anything to do with Farben at the time. Here, again, defendant BUETEFISCH submits quite a number of affidavits (his Exhibits 175, 177, 181). The former Secretary of State under Goering, Erich Neumann, says under oath that Fischer "had already severed his connection with the I.G. Farbenindustrie when he took over the management of the mineral oil department of the R.M.I. This was long before he entered the Continental Oil" (BUETEFISCH Exh. 181); in other words, long before March 1941 (PE 1565). All these affiants are clearly rebutted by PE 1839 from which it appears that, as late as 7 July 1943, Farben circularized the names of the directors authorized to bind Farben by their signature: E.R. Fischer appears as No. 9 on this list. See also PE 1566. One of the affiants, Dr. Silcher (Assistant Defense Counsel in this case), volunteers other information (BUETEFISCH Exh. 177) which shows in the right

light the participation of Farben and the position of Dr. Fischer. According to Dr. Silcher (who at the time was an attorney in the employ of Farben), Fischer asked him "to submit a suggestion concerning the construction of a company in which the government and the German mineral oil firms could work together in the mineral oil field". Fischer approached him not in Silcher's capacity "as an I.G. Farben official but because of (Silcher's) special familiarity with the questions pertaining to enterprise organization" (BUETEFISCH Exh.177). Silcher, "in working on this subject, tried to keep the influence of the government on the smallest possible scale ... whereas the actual responsible management of the company was to lie with the participating enterprise of the mineral oil industry". Fischer, however, told him that "unfortunately" the government should have a controlling position. In other words: it is Silcher's story that Fischer, though in no way connected with Farben and being exclusively a government representative, approaches a Farben lawyer to have him work out the Articles of Incorporation of Continental Oil; and that, though representing the government and not Farben, Fischer feels it is "unfortunate" that the government is to have control!

(26) The wholesale spoliation committed by Continental Oil brought about the most outrageous conditions for the foreign workers involved. The food supplies for the Polish workers who had to help plundering their country in favor of its conqueror, "only amount to one third of those which are customary in Germany". The number of deaths was "rapidly increasing ... A really catastrophic degree of mortality has been reached" (PE 1982). The report containing these data was made by Dr. Sennenwald from Dr. KRAUCH's office (Tr. 8906/7), and was distributed to defendants KRAUCH and BUETEFISCH. On cross-examination, defendant BUETEFISCH had no explanation to offer except that "the fact that in an occupied country difficulties existed is, of course, quite clear". He also feels "it is possible that things were not as bad as Dr. Sennenwald says in this report" (Tr. 8907).

Other Spoliative Activities Throughout Europe

(27) On direct examination, defendant BUNTEFISCH made the general statement that "during the war, we - and I personally - did not try to acquire or appropriate any nitrogen facilities abroad" (Tr. 8839). In fact, however, it has been established that, under defendant BUNTEFISCH's active participation, the Nitrogen Plants Ostmark A.G. (Stickstoffwerke Ostmark A.G.), Linz, took over equipment and machinery from the Dutch nitrogen factory Sluiskil which were dismantled for this purpose. BUNTEFISCH held the position of chairman of the Supervisory Board in the corporation which acquired such equipment (Tr. 8901/2). In defense, BUNTEFISCH (Tr. 8936) and his five affiants (his Exhibits 271, 272, 283, 284, 285) claim that such dismantling was ordered by Nazi authorities, and that the Nitrogen Plants Ostmark A.G., Linz, took them over rather unwillingly. PE's 1978-1980, however, show that the Nitrogen Plants Ostmark A.G., Linz, and defendant BUNTEFISCH were very much interested in obtaining the equipment. As the letter by Nitrogen Plants Ostmark A.G. to the Reich Office for Economic Development puts it: "Dr. BUNTEFISCH was also of the opinion that one cannot expect Linz to take over only those parts of Sluiskil which are not used elsewhere, but that Linz must be given complete satisfaction, above all in the taking-over of the two absorption plants as well"; otherwise, Linz would take over only those parts of Sluiskil which could be built in without any experiments (PE 1979). And from PE 1978: "Linz considered it highly important to take over the complete nitric acid absorption plants from Sluiskil".

(28) Though neither defendant BUNTEFISCH nor any of his five affiants are mentioning the fact, it has been established by cross-examination of defense witness Rumscholdt that Sluiskil has never received any payment for the equipment thus removed (Tr. 14431).

c. COUNT III - SLAVERY AND MASS MURDER

(29) Reference is made to Part III of the Preliminary Memorandum Brief and Parts I and IV of this Brief. At this point we will indicate certain supplemental evidence relating to BUNTEFISCH's



responsibility for the slave labor program in general, as a Vorstand member and manager at Leuna. We will thus discuss further his special activities and responsibility in connection with Auschwitz and Fuerstengrube.

(30) BUETEFISCH in his own affidavit stated that after approximately 1941 Leuna or any other plant requesting laborers knew they could be filled only by foreign laborers, prisoners of war, and concentration camp inmates (PE 1334). He also stated that he saw concentration camp inmates at work in Heydebreck, Schkopau and Wolfen or Bitterfeld, in addition to Leuna (Ibid). On direct examination he denied that he had seen concentration camp inmates at these places, but had seen workers in striped clothing.

(31) BUETEFISCH admitted on direct examination that forced workers and prisoners of war were employed at Leuna (Tr. 8761). He knew generally that the regulations of the Geneva Convention existed, but stated he also thought that the plants under his charge did not come under these regulations because they did not produce "direct war products" (Tr. 8767).

(32) During the war the technical plannings for Moosbierbaum and the Leuna part of Auschwitz were his responsibility. He was also technical adviser for the Podelitz hydrogenation plant and the Linz nitrogen plant. BUETEFISCH stated that the on-the-spot direction of Moosbierbaum was given to his director, Henning (Tr. 8768). At Moosbierbaum gasoline was produced from petroleum, the project having originated upon order of the Armament Ministry (Tr. 8767). BUETEFISCH stated that Henning reported to him and was responsible for worker questions (Tr. 8768). He also stated:

" . . . As the technical chief of a plant, one has to be in constant touch with the workers, especially where one is personally in charge of technical matters" (Tr. 8756).

(33) BUETEFISCH was a member of the Supervisory Board of Continental Oil. The appalling conditions and high death rate of the foreigners upon whom production depended is shown by a report of Dr. Sennenwald of KRAUCH's Office. BUETEFISCH received a copy

of this report which, in part, states:

"... the food rations allocated to Poles only amount to 1/3 of those which are customary in Germany. If the present situation is allowed to continue the state of exhaustion and the rapidly increasing number of deaths will make it almost impossible to maintain production.

"... conditions have become so catastrophic, that with food rations which amount to approximately 11 kilograms per head per month altogether, and with only fractions of this quantity for members of the families of workers, a really catastrophic degree of mortality has been reached. If only for reasons concerning the efficiency of the mineral oil industry it is essential for rations to be increased..." (PE 1982).

On cross examination defendant BUETEFISCH was unable to offer an acceptable explanation of these conditions (Tr. 8907).

Knowledge and Responsibility of BUETEFISCH with Respect to Auschwitz and Fuerstengrube.

(34) The position of the defendant BUETEFISCH with respect to I.G. Auschwitz and Fuerstengrube is clearly established by the numerous documents describing his functions and responsibilities, both in connection with the construction of I.G. Auschwitz and the operation of the Fuerstengrube.

(35) According to KRAUCH, BUETEFISCH and AMBROS were the members of the Vorstand responsible for I.G. Farben Auschwitz. BUETEFISCH's position with respect to the methanol and synthesis establishment which was erected at Auschwitz simultaneously with the Buna plant, was the same as that of AMBROS with respect to Buna (PE 1420; see also PE 1418; PE 1419).

(36) DUERRFELD states that AMBROS and BUETEFISCH were "the members of the Vorstand responsible for I.G. Auschwitz ... I have received my basic directives from the Construction Meetings; that is, from OTTO AMBROS and HEINRICH BUETEFISCH respectively, who were responsible for I.G. Auschwitz to I.G. Farbenindustrie" (PE 1423).

(37) When asked directly on cross-examination whether he, together with AMBROS and DUERRFELD, were the three Farben men most directly responsible for the construction of I.G. Auschwitz, BUETEFISCH replied in the affirmative (Tr. 8919). He admitted also that the planning of the 160,000,000 RM. Leuna part of Auschwitz was under his

responsibility (Tr. 8931).

(38) The defendant BUETEFISCH was fully informed with respect to conditions at I.G. Auschwitz. In addition to his attendance at meetings on his visits to Auschwitz, and meetings held in his own Leuna plant, BUETEFISCH received every Construction Conference report (PE 1419).

(39) As representative of Sparte I, BUETEFISCH as a matter of course was sent all the Construction Conference reports just as AMEROS was sent copies as representative of the Sparte II. As stated by DUERRFELD:

"The Construction Conferences were, briefly, the leadership instruments in the hands of the Vorstand members or their representatives: Dr. BUETEFISCH for Sparte I, AMEROS for Sparte II" (Tr. 11558).

(40) With respect to the weekly reports, BUETEFISCH received the first copy to which the Leuna division was entitled. Under the established procedure the top man received the first copy (PE 2205).

(41) In addition to monthly reports of Construction Conferences and Auschwitz weekly reports, BUETEFISCH testified that his various assistants kept him abreast of events (Tr. 8782). Dr. Braus and Dr. von Staden reported personally to BUETEFISCH (Tr. 8976). BUETEFISCH admits, that von Staden told him of the excesses which had taken place at Auschwitz and about Capos beating inmates (Tr. 8785); and that he had reports made by DUERRFELD and Braus, and he talked to them about food, looked at charts, etc. (Tr. 8930).

(42) BUETEFISCH himself attended conferences at Auschwitz and inspected the construction site from time to time. DUERRFELD stated that AMEROS and BUETEFISCH,

"the members of the Executive Board (Vorstand), responsible for I.G. Auschwitz, were rather often at the Auschwitz plant of the I.G." (PE 1423; PE 1448; PE 1509). (Tr. 8787 - BUETEFISCH's trip to concentration camp Auschwitz in winter 1941-42 - place made good impression).

(43) At Auschwitz the defendant BUETEFISCH had a double role. In addition to being chief of the Leuna section of I.G. Auschwitz, BUETEFISCH had primary responsibility for seeing to it that the raw



material - coal - which was as essential to the tremendous Buna and Leuna projects, was made available to I.G. Auschwitz.

(44) Two days after TER MEER, KRAUCH and AMEROS agreed upon Auschwitz as the site for the fourth Buna plant, BUETEFISCH succeeded in purchasing a majority interest for Farben in the ownership of the Fuerstengrube mine and in gaining complete control of the operations, management and disposition of the products (PE 1556; PE 1529).

(45) Having brought Fuerstengrube into the Farben fold (Tr. 8037), it was BUETEFISCH who represented the Farben Vorstand in the management of Fuerstengrube and it was he who, from the outset, was the chairman of the Fuerstengrube Aufsichtsrat (PE's 1529, 1556).

(46) Of course with respect to the Fuerstengrube mines, adjacent to Auschwitz, where BUETEFISCH was primarily responsible (and AMEROS only secondarily), he was fully informed on every detail which could interest him, including "production, procurement of material and labor allocation" (PE 1556; see also PE 1994, coal conferences; and Tr. 8996, personal conferences).

(47) On 7 April 1941, on the occasion of the founders meeting of I.G. Auschwitz, it was announced that

"Dr. BUETEFISCH (I.G. Farbenindustrie A.G.) has founded a new company, together with the management of the Fuerst Pless Mining Company, for the purpose of securing from the Fuerstengrube mine the coal supplies for the Auschwitz plant" (PE 1430).

(48) How completely Fuerstengrube was absorbed into I.G. Farben is only slightly indicated by the 51 % ownership of Farben, by the fact that BUETEFISCH was chairman of its Aufsichtsrat, and by the fact that BUETEFISCH, together with AMEROS, and Goldberg of Farben, constituted a majority of the Fuerstengrube Aufsichtsrat.

(49) For all practical purposes there was no ownership or management interest in Fuerstengrube other than that of Farben.

(a) Under the contract establishing the Fuerstengrube firm, Farben guaranteed a fixed 4 % profit to the minority partner for a period of 23 years. In other words, regardless of how poorly the firm of Fuerstengrube made out financially,

the minority shareholder would collect a guaranteed 4 % profit on its interest and that 4 % would be paid, not out of the Fuerstengrube assets, but by Farben (Tr. 14188-9).

(b) It was Farben who assumed the sole risk of loss and was, in fact, the sole entrepreneur (PE 1529, Tr. 14189).

(c) However, as of January 1944 even the possibility that the minority partner might eventually suffer a loss after 23 years was completely eliminated. Before January 1944 it was possible to argue that though the minority partner was assured of a fixed profit of 4 % for 23 years, it might, at the end of the 23-year period, suffer a loss if, during the 23 years, there had been continuous losses. However, after January 1944, Farben assumed all the losses incurred by the Fuerstengrube firm so that, at least financially, Fuerstengrube was as much I.G. Farben as if I.G. Farben were sole owner (Tr. 14188-9).

(d) From the point of view of the active operation and management of the Fuerstengrube, the interest of the minority partner was negligible. Pless, who owned most of the shares of the Pless Company, had fled to England and his interest was held by a German trustee (Tr. 8790).

(50) The manager of Fuerstengrube, Falkenhahn, pointed out that all the top I.G. Auschwitz men, DUERRFELD, Braus, Faust, Savelsberg and Doemming, took an active part in the construction of Fuerstengrube and Janina in connection with the allocation of quarters, feeding workers, and the procurement of labor. He states that the authority of these I.G. Farben Auschwitz men was derived from defendant BUETEFISCH who was chairman of the Aufsichtsrat of Fuerstengrube. "Thus these men acted as representatives of Dr. BUETEFISCH" (PE 1556).

BUETEFISCH's initiative in obtaining concentration camp inmates for the construction of I.G. Auschwitz and the construction and operation of Fuerstengrube

(51) At the outset it may be noted that the defendant BUETEFISCH was probably the first of all the defendants to learn of the concentration camp for the Jews and Poles at Auschwitz. It will be recalled

that when Josenhans informed AMBROS of conditions at Auschwitz at the meeting on 16 January 1941, he pointed out that he already had conversations on the 11th of the month with BUETEFISCH on the subject of collaboration in Auschwitz between Buna and the Schlesien-Benzin and that BUETEFISCH was "very much in favor of the Buna-hydrogenization collaboration in Auschwitz" (PE 1411).

(52) The first actual discussion with the SS to obtain concentration camp inmates for the construction of I.G. Farben was conducted on 20 March 1941 by defendant BUETEFISCH on behalf of Farben and Obergruppenfuehrer SS Wolff on behalf of the SS. Defense witness Faust states that he was under the impression that BUETEFISCH already knew Obergruppenfuehrer SS Wolff and he "presumed" that he (BUETEFISCH) was the one who instigated the meeting. The discussion he testified was led by BUETEFISCH at first, then DUERRFELD asked Wolff "in which way the Auschwitz concentration camp could assist I.G. Auschwitz with supplies from the various work shops of the concentration camps .... and with the provision of labor" (PE 2349).

(53) BUETEFISCH, himself, reports that Obergruppenfuehrer SS Wolff stated that he could not give "any binding promise". There is no report of the meeting between BUETEFISCH and Wolff or of any subsequent meeting between the SS and Farben in which there was any indication that the SS was asking Farben to take inmates, or even that the SS was "automatically" making inmates available to Farben. Right from the beginning it was Farben and, at the outset, BUETEFISCH, himself, who sought inmates from the SS. When Wolff told him "I can't give you any binding promise" (Tr. 8773) the inference is inescapable that such a "promise" was sought.

(54) That this is so becomes obvious from defendant SCHNEIDER's description of what occurred. SCHNEIDER states: "After negotiations with the SS (Obergruppenfuehrer SS Wolff) Heinrich BUETEFISCH reported to the technical committee and the Vorstand that the SS was willing to make the concentration camp prisoners available for the construction of the fourth Buna plant" (PE 1418).

(55) Shortly thereafter, in December 1941, came the first of the



annual contributions by Farben of 100,000 Reichsmarks to Himmler. KRAUCH testified that around Christmas of 1941, SCHMITZ told him about the contribution, after KRAUCH (so he testified) advised against it, and that SCHMITZ said the payment was made to help secure the release of Weinberg, a former member of Farben's Aufsichtsrat, from a concentration camp. We have shown in the SCHMITZ brief that the reason now given for the contribution is false, as Weinberg was taken to a concentration camp on 2 June 1942 - more than six months after the payment of 100,000 Reichsmarks to Himmler. SCHMITZ's secretary testified that Himmler wrote SCHMITZ a letter of thanks about these gifts, and it was "the only letter of that kind" (Tr. 11188).

(56) Toward the end of 1943 BUEFISCH's "new company" (PE 1430 supra p.4) was unable to meet the demands of I.G. Auschwitz for coal and when the local managers explained that their problem was the lack of manpower "the gentlemen from I.G. Farben Auschwitz suggested solving this problem by assigning concentration camp inmates and offered to procure concentration camp inmates in order to enable us to reach the output demanded by I.G. Farben as far as possible in time. After that, concentration camp inmates were assigned to us from Auschwitz (PEs 1556, 1544).

(57) It is significant that DUERRFELD, who had no position in Fuerstengrube, and could only act on behalf of Fuerstengrube as deputy or representative of the defendant BUEFISCH, is the man who was instrumental in bringing concentration camp inmates to Fuerstengrube. On 16 July 1943 DUERRFELD "as delegate of Fuerstengrube G.m.b.H.", together with the SS Commandant Hoess, inspected the Fuerstengrube site and made detailed arrangements for the conversion of living quarters to concentration camps. Engineer Doemming, the top barracks engineer for I.G. Auschwitz, was assigned the task of overseeing the necessary extension of the camp of the Fuerstengrube and Janina Mines (PE 1544).

(58) It should be especially noted that neither BUEFISCH, AMEROS nor DUERRFELD can claim that inmates came to Fuerstengrube or Janina Mines "automatically" as a result of a Goering or Himmler order. The record is barren of any testimony to that effect.

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(59) In the case of Fuerstengrube and Janina mines, it cannot even be claimed that there was no other source of manpower because British prisoners of war who were working there were turned out to make room for the concentration camp inmates from Auschwitz. (PEs 1546, 1545, 1544). When a further offer of more British prisoners of war was made (PE 2328), it was flatly rejected (PE 2329).

(60) It is interesting to note that the switch to concentration camp inmates came after a long losing battle with the German army authorities who refused, for sanitary reasons, to crowd 300 British prisoners of war in the barracks which held only 150. (PE 1563).

(61) However, defendant BUEDEFISCH's delegate, defendant Duerrfeld, inspected the barracks and agreed with the SS that

"It is possible to accommodate 300 concentration camp inmates in the present camp where, at the moment, 150 British are housed".

(PE 1544).

(62) Not only did BUEDEFISCH, as Farben's Vorstand member in Fuerstengrube, have the right to control the operations and the management of Fuerstengrube, but the evidence is clear that BUEDEFISCH, together with his colleagues at I.G.Auschwitz, exercised that right and assumed the responsibility of such management problems as housing of the civilian workers.

"Camp Waldeck Fuerstengrube was handed over to I.G.Farben, Auschwitz, on 27 June, 1943."

(PEs 1740, 1537).

The feeding of the workers (PE 1741) and even the problems arising out of the allocation of concentration camp inmates which they had succeeded in obtaining for Fuerstengrube. Thus, I.G.Auschwitz construction technicians assisted in the construction of the camp for the concentration camp inmates (PEs 1556, 1544) and took over the entire problem of feeding the inmates. (Sevelsberg affid. Budefisch D.B.3, p.109; Duerrfeld, Doc.58, Book 2, page 31, Bohn affidavit).

(63) The defendant BUEDEFISCH's explanation of Farben taking over the feeding of Fuerstengrube concentration camp inmates was:



"It is possible that the feeding and housing of the camp was, for reasons of expediency, taken over by the commercial department of Auschwitz upon the request of Fuerstengrube. From a purely economic point of view, that really is a reasonable solution. The wholesale buying for employees amounting to 25,000 men or more naturally demands an organization capable of buying all of the necessary food." (Tr.8805).

(64) From 1 January 1943, the Janina mine was administered by Fuerstengrube GmbH and thereafter there was no difference in responsibility for the administration of Fuerstengrube and Janina mines. (PEs 1556, 1322, 1533, 1544). Janina was "cared for entirely by Fuerstengrube from an operational point of view." (Tr.8806, BUETEFISCH).

The Conditions under which the Slave Laborers, particularly the Concentration Camp Inmates, Worked and Lived on the Farnon Construction Site and in Fuerstengrube.

(65) For conditions at Farnon Construction Site reference is made to the discussion in Part IV of this brief on Auschwitz.

(66) Fuerstengrube, BUETEFISCH's "new company" took the initiative in maintaining the slavery of its foreign workers. When foreign workers, recruited and brought to Fuerstengrube under armed guard, left without permission, the management notified the police and requested that these unwilling foreign workers be brought back - even though some of them were children no more than 15 years of age. (PEs 1535, 1536).

(67) BUETEFISCH's Fuerstengrube Management advocated severe punishment of non-cooperative prisoners of war. On 6 July 1943, they wrote to the office of the Guard Detachment of the camp for British PWs, complaining that certain listed PWs either had refused to work or stopped working before the end of the shift, one of them remarking that he would not work for Germany. Kroeger, writing for the management, states:

"I request that the prisoners of war listed above be punished most severely to prevent the re-occurrence of such incident in the future."  
(PE 1533).

Later, on 16 July 1943, Duellberg of Fuerstengrube, who testified

for defendant BUETEFISCH, wrote to the German Home Guard Battalion, complaining that the British PWs failed to obey the orders of our "Betriebsführer". Duellborg suggested:

"It would seem advisable to authorize the guard detachment or the auxiliary guards to take drastic steps energetically and mercilessly if necessary".  
(PE 1539).

On 18 August 1943 Kroeger, again writing for the management, informed the camp command of the British PW camp that there were further complaints against the British PWs, adding:

"We shall as a matter of course reduce the day's wage of these prisoners of war and request you to punish them by appropriately cutting down their food allotment".  
(PE 1540).

(63) BUETEFISCH's Fuerstengrube Management advocated the further crowding of living quarters of prisoners of war regardless of the health hazards involved and despite the opposition of the Wehrmacht. (PEs 1541, 1542). On the 11th of August 1943 the Wehrmacht Major and Battalion Commander wrote to Fuerstengrube, refusing to increase the number of prisoners of war in the barracks. The Wehrmacht Battalion Commander then revealed that overcrowding was only one of the dangers against which he had to protect the prisoners of war from the Fuerstengrube administration; the other is disclosed in the following paragraph which states:

"Shipments of prisoners of war were held back since the rate of sickness had considerably increased due to the failure to provide water-proof shoes. According to reports received by me, this matter has now been taken care of by you through issuing of rubber boots."  
(PE 1543, see also 1544, 1545, 1546).

(69) The concentration camp inmates who BUETEFISCH and his I.G. Auschwitz colleagues were able to procure for the operation of Forben's Fuerstengrube mine were subjected to the same cruel and inhuman living and working conditions which prevailed at I.G. Auschwitz. One of the inmates, Dr. Rudolf Ehrlich, who came to Fuerstengrube from Auschwitz with 80 other Jewish inmates, described working conditions

at Fuerstengrube as follows:

"For us the work was terribly hard, even the shovels with which we had to shovel the coal all day long were very large and heavy; on top of this there was a mine inspector standing over us who tried to get the last out of us with blows and threats. I stress the point that there was never an SS man in the mine, only personnel of the mine administration. The prisoners were assigned to the hardest places of work where, for instance, they had to shovel kneeling down, for people who were undernourished and not used to this kind of work, a job beyond human capacity. Very often prisoners collapsed at their work. They were beaten until they were completely unconscious; the people were beaten until they could no longer hold their water and stool due to weakness and pain, then they were left in that state until the shift had finished. Then the tired prisoners had to drag their comrades back to the camp.

"Fear of selection, i.e. selection to be gassed, forced the prisoners to work indeed beyond their strength."

(PE 1550).

(70) Another inmate, Dr. Walter Loebner, describes conditions at the Janina Mines as follows:

"I treated many comrades who had blood coagulations and wounds as a result of suffering illtreatment at the hands of mining officials, e.g. Werkmeister Marx and foremen.

"The food consisted of 2 litres of soup daily, four men shared a loaf weighing 2 pounds, a small piece of sausage of approximately 5-7 dkg. three times a week, 3 dkg. margarine. I once calculated that this ration consisted of 800 calories, whilst this category of worker should have received at least 2,500. Therefore, the average working capacity lasted from 4-6 weeks. Then the person was exhausted and if he were not assigned to a lighter detachment (Kommando) in another camp he was ordered to be gassed by the controlling SS physician. The civilian administration of the mine knew of this, as every second month new workers from Auschwitz had to be requested.

"I was able to determine that only increase in production, but never any consideration for the lives and the health of the workers, was of decisive importance in the measures taken by the mining administration. For instance, if any one skilled worker was ill in the sick-bay, the plant urged that he be returned to work."

(PE 1549).

(71) Another inmate, Dr. Erich Orlik, inmate camp doctor, who testified before the Tribunal, describes conditions as follows:  
(PE 1742)



"The work in the mines consisted in the execution of all tasks connected with hauling and transporting of coal. The conditions were extraordinarily hard since the working speed attained through brutal slave driving could not even have been maintained by men on a normal diet and living in normal conditions.

"Most of the time the men had to work in water up to the waist without having been provided with appropriate protective clothing. In order to increase the output as quickly as possible the CC inmates were employed in conditions to which it would have been impossible to subject German or Polish workers. Only CC inmates were employed at these points.

"They had to work the whole shift in prone position in galleries less than half a meter in high. I myself very frequently went down the mines and I went through all sections. Almost daily the admissions to my hospital included some accidents and cases of maltreatment. The maltreatment was carried out almost exclusively by the mine inspectors, chief mine inspectors, the Betriebsfuhrer and the plant manager.

"Moral injuries also occurred as a result of maltreatment. I treated the injured, I carried out postmortems on the dead and I made representations to the mine-administration. The mine administration therefore knew exactly what was happening in the mine but only lent support to the supervisory staff in order to increase output. The output of the prisoners was unbelievably high, sometimes the coal transportation section could not keep pace at all with the amount mined. Equally unbelievably high was the toll of lives in the prisoners detail. In general a prisoner could not stand the work in the mine for more than a month. He was then sent to Birkenau to be gassed.

"In accordance with my calculations the average camp strength was from 300 to 500 men, but about 3000 went through the camp.

"The specter of the gas chamber forced the prisoners to give everything they had. Did not the wind blowing from Birkenau often enough bring with it the sickly smell of burned human flesh."

(72) Dr. Silcher (assistant defense counsel in this case), submitted an affidavit for BUEDEFISCH, concerning his own inspection of the Fuerstengrube concentration camp. In describing the sleeping quarters of the inmates, Dr. Silcher stated that the buildings appeared to be in perfect condition, that each bed had a linen, pillow case, blankets, etc. (Buedefisch Doc. 306). On cross-examination Dr. Silcher was confronted with a document showing that the inmates

did not have bed sheets but slept on straw sacks, without any sheets whatsoever. Silcher then replied that he had qualified that portion of his affidavit with the words: "If I remember correctly" (Tr.14191). Actually the statement concerning linens was made without qualification and the "If I remember correctly" referred only to the pattern of the covering (Tr.14192). Dr. Silcher "explained" further that he could no longer say "with full certainty that I do not confuse my memory of this camp with that of another camp I might have seen". Finally Dr. Silcher admitted that his detailed description was based on his memory of "one visit in 1944" (Tr.14184).

d. COUNT IV - MEMBERSHIP IN THE SS

(73) Under Count IV, the defendant is charged with membership in the SS, an organization declared criminal by the IMT and Control Council Law No. 10.

(74) Since 20 April 1933 until 1945, the defendant was a member of the SS (PE 285). He was also Farben's member of the Hamler Circle, a flature which will also be described herein because it was an important accessory of the whole SS organization.

Nature of the SS

(75) The opinion of the IMT (Vol.I, pp.258-273) described the character and nature of this organization, and stated: (p.272)

"The Tribunal finds that knowledge of these criminal activities was sufficiently general to justify declaring that the SS was a criminal organization to the extent hereinafter described. It does appear that an attempt was made to keep secret some phases of its activities, but its criminal programs were so widespread, and involved slaughter on such a gigantic scale that its criminal activities must have been widely known. It must be recognized, moreover, that the criminal activities of the SS followed quite logically from the principle on which it was organized." ....

The IMT cites certain notorious crimes, such as:

(76) "There is evidence that the shooting of unarmed prisoners of war was the general practice in some Waffen SS divisions. On 1 October 1941 the custody of prisoners of war and interned persons was transferred to Himmler, who in turn transferred prisoner-of-war affairs to SS Obergruppenfuehrer Berger and to SS Obergruppenfuehrer Pohl. The Race and Settlement Office of the SS together with the Volksdeutschenmittelstelle were active in carrying out schemes for Germanization of occupied territories according to the racial principles of the Nazi Party and were involved in the deportation of Jews and other foreign nationals. Units of the Waffen SS and Einsatzgruppen operating directly under the SS main office were used to carry out these plans. These units were also involved in the widespread murder and ill-treatment of the civilian population of occupied territories. Under the guise of combatting partisan units, units of the SS exterminated Jews and people deemed politically undesirable by the SS, and their reports record the execution of enormous numbers of persons. Waffen SS divisions were responsible for many massacres and atrocities in occupied territories such as the massacres at Oradour and Lidice." ....



"From 1934 onwards the SS was responsible for the guarding and administration of concentration camps. The evidence leaves no doubt that the consistently brutal treatment of the inmates of concentration camps was carried out as a result of the general policy of the SS, which was that the inmates were racial inferiors to be treated only with contempt. There is evidence that where manpower considerations permitted, Himmler wanted to rotate guard battalions so that all members of the SS would be instructed as to the proper attitude to take to inferior races. After 1942 when the concentration camps were placed under the control of the WVHA they are used as a source of slave labor. An agreement made with the Ministry of Justice on 18 September 1943 provided that anti-social elements who had finished prison sentences were to be delivered to the SS to be worked to death. Steps were continually taken, involving the use of the Security Police and SD and even the Waffen SS, to insure that the SS had an adequate supply of concentration camp labor for its projects. In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration camp inmates. These experiments included freezing to death, and killing by poison bullets. The SS was able to obtain an allocation of Government funds for this kind of research on the grounds that they had access to human material not available to other agencies." ....

SS-career of Buettfisch. "Honorary" SS-leaders.

(77) The IMT does not exempt the so-called honorary SS-leaders from the categories of criminal membership in the SS. Only the members of the Reiter-SS were excluded and also, "those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes". In general, the IMT excludes from criminal membership all persons "who had ceased to belong to the organizations ... prior to 1 September 1939". The character of the so-called honorary SS officers, is shown by the Decision of the Supreme Spruchkammer Court of Hamm in the appeal case against the honorary SS-leader Baron von Schroeder (PE 2191) stating:

"The Muenberg Judgment counts into the SS all "officially accepted members" and of them excludes only the members of the Reiter-SS. ...."

"But while the Reiter-SS was active exclusively in the relatively harmless, even though also not unimportant field of sports, the Ehrenfuhrer (honorary leader) customarily took an eminent position in the Public life of the State, the economy or science and enjoyed at home, often also abroad, a particular reputation. As Ehrenfuhrer of the SS they did not only contribute to it splendor and good standing with the outer world. The SS by binding into its organization as Ehrenfuhrer such leading men of public life it rather secured

for itself increasingly a determining influence upon all fields of public life relevant to the achievement of leadership and strengthening of power within the State. Reiter-SS and Ehrenfuhrer did by no means have the same importance to the SS, rather a very different one, so that already for this reason it is not permissible to extend the saving clause referring to the Reiter-SS to the Ehrenfuhrer. Rather is it necessary to start from the fact that according to the Muernberg Judgment the Ehrenfuhrers are also to be considered genuine SS members, insofar as they have been "officially accepted". ....

(78) The defendant testified that he did not apply for membership, but that it was offered to him, and that he did not render any oath, nor did he enter into any obligations upon acceptance of his honorary rank (Tr. 3819, 3820). The Spruchkammer decision (supra) finds in that connection:

"As has been admitted in the appeal, the manner in which the defendant was taken into the SS differed from the usual procedure in that the defendant did not apply for admittance and was not then admitted after fulfilling certain requirements, but rather was approached by the SS itself through its Reichsfuehrer, and the defendant allowed himself to be made a member and at least gave this tacit consent through his further behaviour. These differences do not justify a differentiation in arriving at the verdicts, just as in bilateral contracts, be it in the field of civil law or public law, it does not matter which party instigated the making of the contract and which party makes the first binding declaration.

In view of the clear provisions concerning membership in the SS, as set down in the organizational manual of the NSDAP, it is also immaterial that the defendant did not have to fulfill the usual requirement for admission, such as providing proof of Aryan descent and taking the special SS oath. As the Supreme Spruchgericht has already decided several times, the fulfilling of such requirements can be taken, in individual cases, as a certain indication of real membership and can especially be evaluated in that sense, in a case when the individual seeks admission in the SS on his own initiative. Turned around, however, the lack of these prerequisites does not allow the conclusion that therefore normal membership had not been established. For it is the special mark of the "Fuehrer principle", to which National Socialism in general and the SS in particular adhered, that whoever happens to be the Fuehrer is not simply bound to the orders he himself issued, but that he could deviate from them if he saw fit to do so.

If Himmler, in the case under consideration, found it to be correct and expedient to take the defendant into the SS, although the latter defendant had not previously made application therefore and did not bring proof of his descent or have to take the oath, then this is of no consequence because in a case where the organization obviously, for particular reasons, places no value on the fulfillment of such requirements, then such fulfillment cannot later be made an essential prerequisite to membership." ....

"In the opinion of the Senate it is also essentially just that honorary officers like the defendant should be considered as real members of the SS. During the reign of National Socialism they gladly and regularly accepted the economic and social advantages connected with their position, and also used the influence they had as SS officers without scruple. Their membership in the SS was not just a matter of form, either for them or for the SS. Therefore they must be looked upon in a certain sense as beneficiaries, and it would be incomprehensible if they were to be treated in a different way than the unimportant SS member, only because he applied for membership and fulfilled certain requirements and conditions to be accepted, which the honorary officer did not usually have to comply with."...

#### Promotions.

(79) The defendant was accepted into the SS on 20 April 1939 and was immediately promoted to the rank of Hauptsturmfuehrer (SS-Captain) (PE 1577). Subsequently, the defendant was promoted to the rank of SS-Sturmbannfuehrer (SS-Major) on 30 January 1941 (PE 1577) and to the rank of SS-Obersturmbannfuehrer (SS-Lt. Colonel) on 5 March 1943 (PE 1578). He held this rank until the end of the war (PE 285).

#### Assignments.

(80) The SS-card file of the defendant (PE 1579) shows that he was assigned to three different units at different times. He was first appointed SS-leader with the Staff of the SS-Upper Sector Elbe (PE 1575). On 1 May 1941 he was released from this assignment and appointed SS-leader with the Staff of the SS-Main Office (PE 1575). Within the SS-Main Office the defendant was attached to the SS-Personnel Main Office until 1 November 1941 (PEs 1579, 1975). From there he was finally transferred to the SS-Main Office, where he apparently remained to the end of the war (PEs 1579, 1973). Although the prosecution did not furnish any proof as to the motives for these transfers of the defendant to various SS-units, the defense argument that honorary SS-leaders had to be attached to a unit for purely administrative reasons (Tr. 8821) does not account for the various assignments of the defendant.

(81) The defendant claims that he only accepted the honorary rank in the SS upon the insistence of Kranofuss with whom he worked in Brabag (Tr. 8819, 8820). Kranofuss who had very close relations to



the Reichsfuehrer SS, Himmler, was also the organizer of the so-called Circle of Friends of the Reichsfuehrer SS, a body that consisted mainly of prominent industrialists including high ranking SS-officers (PE 1974), which will be dealt with in greater detail later. The defendant also claims that his honorary rank in the SS and his participation in the Circle of Friends, which "incidentally" both commenced about the same time, early in 1939 (Tr.8827, PE 285), had "nothing whatever to do with Farben" (Tr.8834), although he had stated in his own affidavit (PE 1976) that he (BUETZLISCH) is now of the opinion that his invitation to join the Circle of Friends and his promotions in the SS were merely due to the fact "that the SS intended in this way to create ever closer ties between itself and I.G." But one does not have to rely upon the contradicting testimony of the defendant on that point. The fact that he became a member of the Himmler Circle in addition to his SS membership, although he could have become a member of the Circle without being a member of the SS proves that he firmly adhered to the ideals and principles of the SS. The importance the SS attached to the participation of the defendant in the Circle is also expressed by the fact that the promotions of the defendant were always approved in conjunction with other members of the Circle, and on the proposal of Kranefuss (PEs 1577, 1578). From the membership of the Circle of Friends of Himmler (PEs 1581, 1596) it can be seen that most of the prominent industries of the Third Reich were represented therein. Why the Reichsfuehrer SS Himmler wished to keep close relations to the leading industrialists of Germany, will be discussed in the following section.

The Circle of Friends of the Reichsfuehrer SS,  
Heinrich Himmler.

(82) The Circle was founded by Keppler, one of the earliest and most trusted collaborators of Hitler, sometimes in 1932. About the same time Hitler appointed Keppler Commissioner for Economic Questions in the NSDAP. Thus the Circle served Hitler as an advisory organ

before and shortly after the assumption of power (PE 1599). When Keppler's influence diminished as economic advisor of Hitler and Goering with Four Year Plan became the predominant factor in Germany's economic life in the middle thirties, Himmler took over the Circle of Friends for his economic interests and its name changed accordingly from Keppler Circle to Himmler Circle of Friends (PE 1599). About this time on 17 June 1936 Himmler was appointed chief of the German police in the Ministry of the Interior and shortly thereafter issued his decree "which placed both the criminal police or Kripo and the Gestapo in the Security Police and the SD under the command of Heydrich (IMT Judgment, p.262). Kranefuss acted as executive secretary of the Circle. He was related to Keppler and was also close to Himmler, and acted with respect to the operation of the Circle as his adjutant (PE 1974). Both Keppler and Kranefuss held leading positions in Brabag; Kranefuss was chairman of the Vorstand of Brabag, Keppler was chairman of the Aufsichtsrat. BUETEFISCH was also a member of the Board of Brabag as well as Krauch (PE 521). It was convenient for Himmler to be in close contact with some of the leading German industrialists, because in addition to their economic advice, they gave him considerable financial support (PE 1599).

(83) The defendant admits that he joined the Circle about the same time when he received his rank in the SS (Tr.9827, PE 285). He knew that Circle would meet at regular intervals "to discuss questions of the day" and "to exchange economic opinions" (Tr.9827). The Circle held regular meetings which continued also throughout the war on the second Wednesday of each month at the "Haus der Flieger" (house of aviators) (PEs 1591, 1597).

(84) SS General Wolff and chief of Himmler's Personal Staff states:

"Through these meetings the industrialists among the circle of friends became acquainted with the senior SS-leaders and work and ideals of the SS. Lectures were also frequently given by senior SS-members." ... (PE 1582).

Although several members excused themselves quite frequently from these meetings, the defendant seems to have always participated. This appears from a letter of Kranefuss to Himmler (PE 1974) in which he complains about the irregular attendance of certain member of the Circle. He writes in this connection:

"Without any loss whatever to the Circle of Friends, in my opinion, the participation of these gentlemen can be dispensed with, because their lack of interest in our meetings is in complete agreement with their attitude in other matters and problems. To be sure, I should regret the elimination of SS-Brigadefuehrer Boerger, even though I agree with your opinion of him unreservedly. Unpleasant discussions, in the course of which I noted the absence of any understanding whatever and heard only more or less threadbare excuses, I have had only with Dr. Kurt Schmitt and Herr Walz." ....

BUETEFISCH's name does not appear among those subject to this criticism.

(95) Lectures were a regular feature of the meetings of the Circle (PE 1582). Although the topics differed, it can be safely stated that by far the largest aspect in these lectures was provided by themes related to the aims or achievements of the SS. A note signed by an SS-Lt. of Himmler's Personal Staff, of 1 July 1942 reveals that the Reichsfuehrer SS Himmler himself determined the nature of the lectures to be held before the Circle:

"I spoke on the phone with SS-Oberfuehrer Kranefuss and have told him that the Reich Fuehrer SS does not desire comprehensive basic lectures but rather touch on so-called high lights from the individual fields of work, e.g., on the combating of partisans, on the deployment of SS-Oberfuehrer Ohlendorf in the Crimea which with short activity reports and episodes surely would prove as interesting as abstract general lectures."... (PE 1975).

This note was prompted by an inquiry from Kranefuss on 15 June 1942 to Himmler's personal adjutant, in which he stated:

"The Reichsfuehrer has expressed his desire that I always report the date of the next meeting of the Circle of Friends as early as possible, so that he may determine the subject matter of the next lecture and who the next speaker is to be. I should be very grateful, and I believe that I am speaking for all the gentlemen, if we asked for a lecture on Security Police and Security Service (Sicherheitspolizei und SD), for Wednesday, July 8. Here I should like to propose that the Reichsfuehrer request SS-Oberfuehrer Ohlendorf, who always participate in these meetings, to prepare for this lecture, and that he informs him or decides with him who the lecturer or lecturers are to be and what topic shall be discussed." .... (PE 1587).



The nature of the Circle is further indicated by reference to subjects discussed such as: - lectures of SS-colonel Behronda of the SS Racial and Settlement Office, on the re-settlement of racial Germans in the occupied territories (PE 1538), and of State Secretary Neumann of the Reich Propaganda Ministry about the political situation in the armament field (PE 1292).

(36) On 10 June 1942 the German authorities in Prague announced what happened in Lidice as follows:

"Because the inhabitants of this village, by their support and assistance to the assassins of SS-Obergruppenfuhrer Heydrich, broke the law so recklessly, the men have been shot, the women deported to concentration camps, and the children taken where they may have suitable upbringing. The buildings of the village have been razed to the ground and its name erased."

(PE 1598).

On the evening of the same day, Brandfuss told the Circle of Friends:

"The SS and its Reichsfuhrer mourn these days for Obergruppenfuhrer Heydrich. We carried him to his grave yesterday. And the Reichsfuhrer and then the Fuhrer himself expressed what the deceased meant to us and will mean to us. You, however, the friends of the Reichsfuhrer, whose activities lie for the most part in civilian life, would perform an act of friendship for him and the SS, if you helped us to uphold amongst German people the memory of Reinhard Heydrich as that of an SS-man exemplary in every respect, in a manner truly befitting to him. The Reichsfuhrer said yesterday that he, the deceased, was feared by subhumans (Untermenschen), hated and denounced by Jews and other criminals, and at one time was misunderstood by many a German. His personality and the unusually difficult tasks assigned to him were not of a nature to make him popular in the ordinary sense of the word. He carried out many harsh measures ordered by the state and covered them with his name and his person, just as the Reichsfuhrer does every day. Added to this - and I repeat here the words of the Reichsfuhrer - he had the difficult task of developing and leading an organization, which deals only with the dark sides of life, with inadequacies, deviousness, with ignorance as much as with ill will, with criminal instincts and asocial excrescences of human society." ....

(PE 1597).

The above quoted communique on the destruction of Lidice is still available today at the Records Building Frankfurt/M-Griesheim, where books and publications from Farben libraries are kept (PE 1598, 1599, and 1590).

Himmler's speech to the Circle at his Headquarters in December 1943.

(87) The Circle visited Himmler at his field headquarters at Hochwald in East Prussia on 12 December 1943. The defendant admitted his presence at this meeting (Tr.8827). The most notable feature of the visit was a speech to the Circle by Himmler, during which he referred to his reputation as that of a "bloodhound" or "butcher" (PE 1593). In Himmler's files located in the Berlin Document Center, a note written in Himmler's own handwriting shows that the foreign workers problem was one of the topics of his speech (PE 1834).

Financial contributions through the Circle of Friends of Himmler.

(88) The Circle made regular contributions to the SS amounting to over one million Reich Marks per annum, of which RM 100,000 was contributed by Farben through the defendant RUETEFISCHE together with the defendant Schmitz in the years 1941, 1942, 1943 and 1944. No contributions were larger than those made by Farben. The funds were used for Himmler's "special tasks", and "for his purpose" (PEs 1584, 1586, 1592, see also discussion, supra Para 55). SS General Wolff states in his affidavit (PE 1586):

"The annual money gifts to the SS by industrialists amongst the members of the circle of friends were paid to Baron von Schroeder, who had the so-called special account "S" at his Steinbank, from where it was then transferred to the special account "R" at the Dresdner Bank. Himmler himself and I, too, were entitled to withdraw money from that account." ....

(89) At the occasion of Himmler's appointment to Reich Minister of the Interior in the middle of 1943, Schroeder on behalf of the Circle placed over 1 million Reich Marks at Himmler's disposal, and stated:

"A strong hand is now very necessary in the operation of this Department and it is universally welcomed but especially by your friends that it was you who were chosen for this by the Fuehrer. Please be assured that we will always do everything in our power at all times to assist you in every possible way. I am pleased to inform you at this opportunity that your circle of friends has again placed at your disposal this year a sum slightly in excess of RM 1 million for "special purposes". An exact list showing the name of the contributors will be sent to you shortly". ...  
(PE 1591).

Himmler's speech to the Circle at his Headquarters in December 1943.

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Financial contributions through the Circle of Friends of Himmler.

(88) The Circle made regular contributions to the SS amounting to over one million Reich Marks per annum, of which RM 100,000 was contributed by Farben through the defendant BUETEFISCH together with the defendant Schmitz in the years 1941, 1942, 1943 and 1944. No contributions were larger than those made by Farben. The funds were used for Himmler's "special tasks", and "for his purpose" (PEs 1584, 1586, 1592, see also discussion, supra Para 55). SS General Wolff states in his affidavit (PE 1586):

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These contributions constituted substantial financial assistance to the leader of a criminal organization during the height of its criminal activities (See Judgments in IMT and of Nuernberg Tribunal in Pohl case).

(90) The judgment in the Flick case states on this point (Pages 11021, 11022 of the Transcript of Tribunal IV):

"A hundred thousand Reichsmarks per year to a wealthy man or to one who pays from state funds is perhaps not too high a premium to insure personal safety in the fearful days of the Third Reich. This may be considered in mitigation but we are convinced that there was not any such compulsion upon their membership or contributions as we have discussed in the case of use of conscripted labor. Defendants in this Court do not put their defense on the ground of fear but rather on lack of knowledge. It remains clear from the evidence that each of them gave to Himmler, the Reichsfuehrer SS, a blank check. His criminal organization was maintained and we have no doubt that some of this money went to its maintenance. It seems to be immaterial whether it was spent on salaries or for lethal gas. So we are compelled to find from the evidence that both defendants are guilty on Count Four." ....

(91) Acknowledgments of Farben's contributions were made to both the defendants BUEHREISCH and Schmitz (PE 1595). Schmitz ordered the payments by Farben, as the transactions involved the passing of credits through the Central Finance Administration with notice to the Office of the Central Committee of the Vorstand (PE 1585). BUEHREISCH claimed that he himself did not contribute anything to the Circle of Friends (Tr. 8834) and that he merely passed on the request of Krauch to Schmitz on one occasion without knowing what happened afterwards (Tr. 8836). We have already discussed Krauch's version of this episode (supra, par. 55). Even after the first contribution BUEHREISCH continued as a member of the Circle and further contributions were made by Farben.

(92) Himmler showed his gratefulness to the members of the Circle of Friends in a letter to Baron von Schroeder of 25 August 1942 (PE 1586) where he states:

"Please inform all members of the Circle of Friends how very grateful I am to them for again contributing so generously over a million Reichsmarks for my purpose."

Farben's contributions were rewarded with the particular appreciation of the Reichsfuehrer SS, as it is shown in a letter Schroeder to Schmitz, of 16 March 1944 (PE 1594):

"As you know, the Reichsfuehrer has always particularly appreciated this contribution, and you may be sure of his gratitude."

Himmler's chief of Personal Staff, General Wolff stated (PE 1582):

"The relations between Himmler and the members of the circle of friends were good, during the time of my participation in the meetings of the circle of friends, and Himmler frequently took the gentlemen along with him on inspection tours in order to make them acquainted with the work and problems of the SS and to show them sometimes how the money gifts were used." ...

(93) In the Circle were men who were leaders in their fields. The Party, government officials, SS representatives and representatives of industry all got together to help Himmler. From government economic circles there were the following members: Weldhecker of the Reichsbank; Blessing of the Reichsbank and later of the government sponsored oil company, Kontinental Oel; Herbert Goering of the Ministry of Economics until 1938; Franz Heyler and Otto Ohlendorf who were predominately SS men but were at various times undersecretaries at the Ministry of Economics; and Hans Kehrl who was successively in Kuempler's economic office of the Party, in the Ministry of Economics, and in the war years head of the Raw Materials Office and of the Planning Office, an agency of the Central Planning Board. The Hermann Goering Works was represented by Karl Voss, head of its entire armament branch, (including the Skoda plant). The Ministry of Labor was represented by Wilhelm Boerger, and the Ministry of Propaganda by Werner Maunann, both of whom were SS officers. Fischboeck who was active in aryanization in Austria shortly after the Anschluss (See PE 339). Among the industrial concerns were the Vereinigte Stahlwerke were represented by Voegler and later by Steinbrinck; the Flick Concern, by Flick and Steinbrinck. Of the three leading banks of Germany, the Deutsche Bank was represented by von Halt; the Commerz Bank by Friedrich Reinhardt; and the Dresdner Bank by two Vorstand members, Emil Meyer and Karl Rasche, and several

members of its Aufsichtsrat including Flick, Lindemann, Schieber, and Walz. The Reichs-Kredit-Gesellschaft was represented by Olacher, and the Stein Bank of Cologne by von Schroeder. Among SS leaders were Himmler himself, Obergruppenfuehrer Keopler; Obergruppenfuehrer Karl Wolff, Himmler's adjutant; Obergruppenfuehrer Oswald Pohl, the SS official in charge of the concentration camps and concentration camp labor; Brigadefuehrer Ohlendorf, a leader in the notoriously criminal activities of the Einsatzgruppen in Russia, etc. (PEs 1591, 1593). The great majority of the members of the Circle were members of the SS either full time or part time.

(94) In this company was BUETEFISCH of Farben. This was one of their contacts for slave labor from the concentration camps. They probably classified their contributions to Himmler as "charitable". "Profitable" would be more accurate. What was Ambros referring to when he wrote to ter Meer: "Our new friendship with the SS is proving very profitable" (PE 1431).

c. COUNT V -- CONSPIRACY

(95) The comments made in the individual brief on the defendant Krauch, Part VI-B, sub-section "d. COUNT V -- CONSPIRACY", at pages 41-42, are also applicable to the defendant BUETEFISCH.

5. Proposed Findings Of Fact With Respec. To The Guilt Of HEINRICH BUETEFISCH.

The evidence has established beyond a reasonable doubt the guilt of the defendant HEINRICH BUETEFISCH on the charges contained in Counts I, II, III, IV, and V of the Indictment filed in Case VI. The guilt of the defendant BUETEFISCH under each of these Counts is predicated upon the following facts, which have been established by the proof:

COUNT I

1. The following activities of BUETEFISCH, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.



(a) BUETEFISCH's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1934 to 1945; as a member of the TEA from 1933 to 1945; as Deputy Manager of Louisa from 1934 to 1945; and as Chief, Technical Committee of the Stickstoff Syndicate from 1934 to 1945.

(b) BUETEFISCH's activities in other positions, including his activities as collaborator of Krauch in the Four Year Plan from 1936 to 1945; as Chief of the Economic Group Liquid Fuel Industry from 1939 to 1945; as Chief, Working Association for Hydrogenation, Synthetics, and Soldering from 1938 to 1945.

(c) BUETEFISCH's activities carried on through the instrumentality of Farben, and through his positions in the Government, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. BUETEFISCH participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedom. BUETEFISCH knew this for a number of reasons:

(a) BUETEFISCH knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933, it was

clear to BUEDEFISCH that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1935, and reaching staggering proportions in 1938, could have no other meaning to a man in BUEDEFISCH's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by BUEDEFISCH and the timing of such activities, establish that BUEDEFISCH knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by BUEDEFISCH at which the aims of the Nazi leaders were expressed, and BUEDEFISCH's own statements on various occasions, are sufficient in and of themselves to establish that BUEDEFISCH had the required state of mind.

(e) BUEDEFISCH's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to BUEDEFISCH; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, BUEDEFISCH knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant BUEDEFISCH.

(a) As a matter of law, even if the facts established that BUEDEFISCH acted under duress or coercion, this would be no defense.

(b) The facts do not establish that BUEDEFISCH acted under duress or coercion in carrying out any of the activities specified above.

## COUNT II

1. The defendant BUEFISCH knowingly participated in plans to spoliates, and in spoliating, the chemical industries of occupied countries.

2. BUEFISCH bears a major responsibility for, and knew of, the program of Farben to take over chemical industries throughout Europe. BUEFISCH played an especially active role in the plunder and spoliation of property in the Soviet Union through the Continental Oil Company.

3. The alleged defense of duress or coercion is not available to the defendant BUEFISCH.

(a) As a matter of law, even if the facts established that BUEFISCH acted under duress or coercion, this would be no defense.

(b) The facts do not establish that BUEFISCH acted under duress or coercion in carrying out any of the activities specified above.

## COUNT III (Sections A and C)

1. BUEFISCH knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. BUEFISCH took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war



for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of BUETEFISCH were, to BUETEFISCH's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. BUETEFISCH continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant BUETEFISCH.

(a) As a matter of law, even if the facts established that BUETEFISCH acted under duress or coercion, this would be no defense.

(b) The facts do not establish that BUETEFISCH acted under duress or coercion in carrying in out any of the activities specified above.

COUNT III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. BUETEFISCH participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. BUETEFISCH knew that human beings in concentration camps were being exterminated by gassing.

4. BUETEFISCH either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

COUNT IV

1. BUETEFISCH was a member of the SS from 1939 to 1945 with the rank of Captain (1939-1941), Major (1941-1943), and Lieutenant Colonel (1943-1945). He knew of the criminal activities of the SS, including the forceful evacuation by the SS of thousands of Polish families and the enslavement, mistreatment and murder of inmates at Auschwitz, as well as of the SS administration of concentration camps generally.

2. He was a member of Himmler's Circle of Friends from 1939 to 1945; attended the regular lectures on the aims and achievements of the SS; supported the criminal activities of the SS, through Himmler and the Circle of Friends; and participated in large contributions from Farben to the SS.

COUNT V

1. The foregoing activities were engaged in by the defendant BUETEFISCH in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.

2. The defendant BUETEFISCH, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.

1. Charges in the Indictment. The defendant HAEFLIGER is indicted under Count I (crimes against peace), Count II (plunder and spoliation constituting war crimes), Count III (slave labor, constituting war crimes and crimes against humanity), and Count V (conspiracy to commit crimes against peace). The defendant took the stand in his own behalf (Tr.9064, et seq.).

2. General Nature of the Evidence Supporting These Charges. HAEFLIGER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economical and political life of Germany, HAEFLIGER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant HAEFLIGER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including a Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant HAEFLIGER sets forth certain highlights in the activities of the defendant HAEFLIGER and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific





instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. HAEFLIGER's Positions From 1933 to 1945. The positions which HAEFLIGER held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in PEs 292, NI-9755, Book 11, p.60, and 293, NI-5165, Book 11, p.63 (see also testimony of HAEFLIGER, Tr.9064, et seq.). The following positions held by HAEFLIGER during these years are of special significance:

(a) HAEFLIGER was a member of the Vorstand from 1925 to 1945; a full member since 1938.

(b) HAEFLIGER was a member of the Commercial Committee from 1937 to 1945.

(c) Since about 1930 HAEFLIGER was chief of Section M of the S-Ies Combine Chemicals and later became deputy Chairman of the Sales Combine Chemicals.

(d) HAEFLIGER was a member of the East Asia Committee from 1935 to 1945 and in 1939 became member of the Chemicals Committee and the Southeast Europe Committee.

(e) In 1933 or 1934 HAEFLIGER became a member of the Sulphur Committee (Schwefelausschuss) of the Reich Economic Ministry, (dealing with prices and the supply of foreign exchange for sulphur imports from Italy, Norway, and Sweden).

(f) Between 1933 and 1945 HAEFLIGER was a member of the board of directors and governing bodies of numerous business enterprises including Advisory Board (Beirat) Nordisk Iettmetall A.G., Oslo, Norway; Aufsichtsrat Chemische Werke Aussig-Falkenau G.m.b.H., Aussig, Czechoslovakia; Aufsichtsrat Carbidwerk Deutsch-Matrei A.G., Vienna, Austria; Aufsichtsrat Donau Chemie A.G., Vienna, Austria; Advisory Board (Beirat) Elektrochemie Suedosteuropaische Handelsgesellschaft m.b.H., Vienna, Austria.

4. Certain Specific Activities of HAEFLIGER During the Period 1933 to 1945.

a. COUNT I -- CRIMES AGAINST THE PEACE

(1) Although HAEFLIGER mainly specialized in the field of the Chemical Sales Combine, still as a member of the Vorstand of Farben during the whole period from 1933 to 1945 he was informed of and authorized, approved, or ratified all major activities of Farben during this period. HAEFLIGER's special field of light metals, such as aluminum and magnesium and other strategic metals was intimately connected with Germany's preparation for aggressive war. (See PE 590, NI-7562, Book 30, p.78; see also Buergin Part VI, "K-Ernat Buergin", above, for further discussion of this question). HAEFLIGER participated in and was informed of negotiations with the Reich War Ministry, Ministry of Economics and other Reich agencies concerning expanded production plans, stockpiling and construction of standby plants for the production of ferrous alloys, magnesium, aluminum, nickel, and tungsten ore. Through his participation in Commercial Committee meetings HAEFLIGER participated in and was informed of Farben's activities in the commercial field, including its mobilization plans, measures taken with respect to the Four Year Plan and rearmament, support of the Nazi Party both at home and abroad, and Farben's activities in each of the countries invaded and occupied by Germany both before and after these acts of aggression.

(2) HAEFLIGER contends that because he was a Swiss citizen and did not become a German citizen until 1941, the Vorstand members became more reticent in informing him about their activities, that information was withheld from him by Farben officials and that documents introduced by the prosecution involving orders of deliveries to be met in case of war were never seen by him prior to these proceedings. (Tr. 9070-9071). Throughout his direct examination he disclaimed knowledge of events and activities both with respect to Farben and

the aggressive aims of the Nazi Regime. Concerning HAEFLIGER's knowledge as a Vorstand member it is sufficient to note that despite his contentions he testified that nothing was concealed from him at Vorstand meetings and that he was never asked to leave the Vorstand meetings so that any particular subject could be discussed without his presence (Tr.9072). In the light of the specific and contemporaneous evidence involving HAEFLIGER discussed below, HAEFLIGER's claim of lack of knowledge is a fiction.

(3) In June 1935, HAEFLIGER was informed of a conference in Bitterfeld between the Reich Ministry of Economy and the HMW (Main Economic Office for Metals) attended by Meyer-Kuester concerning the expansion of production of Tungsten ores and the "more strongly emphasized request of the German government for the transfer of the metal alloy production from the German border to the interior of the country" (PE 2007, NI-14580). HAEFLIGER testified "soon after 1933 I was in touch with Mr. Keppler and with all other producers of ferrous alloys. Keppler had the assignment to investigate Germany's ore deposits" (Tr.9228). In November 1933, Schmitz in a letter to HAEFLIGER referred to the fact that HAEFLIGER "was engaged in various negotiations of a strictly confidential nature with the German Ministry of War especially in the anorganic Department" (PE 2004, NI-14662). In August of 1935, HAEFLIGER received a report on a discussion at Bitterfeld concerning the erection of a standby plant in Teutschenthal for the production of ferrous alloys. The report of the conference noted that the production plan for Bitterfeld North and Teutschenthal should be worked out as a basis for final discussion with the Army Ordnance Office (PE 2008, NI-14668). The same month HAEFLIGER received a report of a conference held at the Farben Oppau plant with representatives of the Ministry of Economics at which the Ministry requested Farben to transfer its Oppau plant from the West to Central Germany, to expand its production of nickel and stockpile as large a supply of nickel ore in Germany as possible. Farben promised to "try everything in order to obtain from Inco (International



Nickel Company) a larger supply of nickel-ore for stockpiling ..."

(PE 720, NI-9549, Book 39, p.115). In November of 1935, HAEFLIGER attended a conference of the members of the Corporation Aluminum Works concerning the erection of an aluminum plant in a protected area "in the event of war (A-Fall)" with a production capacity of 30,000 tons per year. It was noted at that conference that Germany had no peacetime need for expanded aluminum production capacity and that the construction of a further aluminum plant "will be considered only if special needs arise in the event of war". Under certain conditions set forth, Farben (FAW) was willing to build such a plant and "thereby to satisfy the wishes of the Reich War Ministry in this respect" (PE 2011, NI-14670). Prior to the introduction of this document by the prosecution, HAEFLIGER testified that it never occurred to him to consider the expanded production program in light metals, as war measures but rather that it was connected with Germany's peacetime requirements for motor cars (Tr.9110). According to HAEFLIGER's testimony he also "heard" that year, 1935, about an order issued in 1933, by the Aviation Ministry to erect a magnesium standby plant in Aken and about the later construction of a magnesium standby plant in Stassfurt (Tr.9110). Struss, who visited Aken and Bitterfeld, in the summer of 1935, stated that he noticed on that visit "that without a doubt practically the entire production of magnesium was stored there in the form of tubes and packed into cases marked "textile cases" and that it was common knowledge that the tubes were intended for incendiary bombs (PE 744, NI-4832, Book 40, p.42). HAEFLIGER testified that when he went to inspect the Bitterfeld plant in 1936, he learned that Farben was producing incendiary bomb shells "though he was not informed of the size of this order" (Tr.9119). Shortly after this testimony, HAEFLIGER gave a comprehensive report of Farben's production figures of magnesium, magnesium alloys, and aluminum (Tr.9116). HAEFLIGER also testified that he "heard about" the expanded Buna and synthetic gasoline production (Tr.9112).

(4) In 1936, the year in which HAEFLIGER, according to his testimony, inspected the Bitterfeld plant and observed the production of incendiary bombshells, he received a confidential report of a conference between Farben representatives and a Major Czimatis, representing the Raw Material and Foreign Exchange Staff and the Reich War Ministry, concerning the expansion of production plants for aluminum. Farben was asked to "carry out this enlargement not only to cover present requirements but also to create a sound basis for peacetime and wartime requirements concerning this very important Metal" (PE 2009, NI-14674). At the same time, HAEFLIGER was informed also in a confidential report, of a similar interest of the Army with regard to magnesium (PE 2010, NI-14669). In September 1936, HAEFLIGER received a copy of a report on the "Problems of Germany's Nickel Supply" circulated by Von Knieriem to I.G. officials and to the V/W and Reich War Ministry. The report after surveying the needs of Germany for Nickel and analyzing the necessary steps required to fulfill those needs states:

"In the discussions held on 28 April 1936, I.G. explained to the International Nickel Company the special difficulties of supplying Germany and stressed the necessity of accumulating bigger stocks than hitherto. The International Nickel Company showed full understanding of I.G.'s wishes and proposed that during the next five years a stock of 5000 tons of nickel be established in Germany. ...Here the I.G. has done some preparatory work along the lines of the Reich War Ministry's wishes."  
(PE 722, NI-4921, Book 39, Page 35, Tr.1300, 6645, 6688, 7360).

In November of 1936, HAEFLIGER notified ter Meer that Pleiger a member of Goering's staff had requested Farben for a chemist to assist Koppler. HAEFLIGER told ter Meer he would recommend a chemist "devoted heart and soul" to Farben (PE 408, NI-4638, Book 19, p.88).

(5) In August 1937, Farben's commercial committee of which HAEFLIGER was a member, began holding regular monthly meetings. In a letter to Bosch from von Schnitzler, von Schnitzler in giving the reasons for resuming periodic meetings of the commercial directors,

referred to "questions of purely economic character, as well as questions relating to political economy and financial politics". Von Schnitzler also stated that Paul Mueller, Chairman of DAG, would be contacted "as to the way in which we should include the explosives interest in our circle" (PE 361). The first of such periodic meetings of the Commercial Committee was held on 20 August 1937 with HAEFLIGER present. At this meeting, it was stated that Paul Mueller was to be invited to further meetings as a representative of the explosives group (PE 362). In September 1937, a meeting of the Commercial Committee was held, with HAEFLIGER present, at which a number of significant matters were discussed. One of the matters discussed was the staffing of Farben agencies abroad and collaboration with the AO (Organization of Germans abroad). In this connection, it was stated that:

"It is generally agreed that under no circumstances should anybody be assigned to our agencies abroad who is not a member of the German Labor Front and whose positive attitude to the new era has not been established beyond any doubt. Gentlemen who are sent abroad should be made to realize that it is their special duty to represent National Socialist Germany. They are particularly reminded as soon as they arrive they are to contact the local or regional group (of Germans abroad) respectively, and are expected to attend regularly at their meetings as well as at those of the Labor Front. The Sales Combines are also requested to see to it that their agents are adequately supplied with National Socialist literature.

Collaboration with the A.O. must become more organized. It seems practical to work out a uniform plan jointly with the A.O. which will show within which period of time it will be possible to eliminate deficiencies still existing with our agencies abroad, which have been a subject for complaint".

Reference was also made at this meeting to the problems accumulating in connection with the Four Year Plan and Rearmament and the necessity therefore of all agencies of Farben to maintain close contact with the Political Economy Department "with regard to conferences, or negotiations with authorities, associations, and political organizations, so as to assure a uniform attitude of the I.G. towards all those questions". A report also was made on measures to be taken in Austria to establish closer relationship between Farben, Skoda Werke Wetzler



and the Czech and Austrian branches of DAG. Farben, the DAG, and SWW were each to take one third of the stock of a new company called Anilinchemie (PE 363; Tr. 10699). HAEFLIGER was present at the meeting of the Working Committee of the Vorstand in June 1937 when Schmitz reported the approval of the Central Committee of various contributions to the Adolf Hitler Fund (PE 79, NI-4865, Book 4, Page 22).

(6) Beginning in September 1937, the Commercial Committee regularly dealt with the mobilization question at its monthly meetings (PEs 249, 250). Beginning in January 1938, HAEFLIGER attended all the Commercial Committee meetings which dealt with this question. HAEFLIGER testified on his direct examination that in September 1939, he was completely surprised by the mobilization plans, that the technical mobilization plans were unknown to him, and that the only discussions which took place concerning mobilization plans at the Commercial Committee meetings was the question of deferment (Tr. 9114). HAEFLIGER was present at the Commercial Committee meeting of September 10, 1937, at which von Schnitzler reported on the "present situation" with respect to mobilization and requested Ilgner to arrange a conference at the Reich Ministry of Economics on the question and to report back to the commercial committee, and at the Commercial Committee meeting of January 1938 at which Ilgner reported on the mobilization question and informed the committee that with ter Meer's consent the question would be dealt with by the Vermittlungsstelle W in regard to matters of production and by the Political Economy Department in regard to commercial matters. HAEFLIGER was not present at the October, November, and December 1937 meetings of the Commercial Committee at which the mobilization question was discussed. He undoubtedly received a copy of these minutes, which noted among other things, with respect to the mobilization question, that "the Sales Combine would look into questions concerning financial, personnel, and stockpiling matters". In any event, he was present at the highly significant meeting of the

Commercial Committee on 11 March 1938, one day before the invasion of Austria, when the mobilization question was the first item on the agenda (PE 893, NI-5621, Book 48, Page 152). HAEFLIGER's own account of that meeting appears in a secret note dated 16 March 1938 (PE 2014, NI-14507). HAEFLIGER reports that "the first item on the agenda was the "M" question" and then in reporting on the "atmosphere in which that meeting took place" he states that that morning "Dr. Fischer returned excited from a telephone conversation and reported that the Gasolin had received instructions to supply all gas stations quite a number of workers had already been called to arms and the mobilization in Bavaria was in full swing ... we were uncertain, whether, simultaneously with the march into Austria which to us was already an established fact, there would not also take place the short thrust into Czechoslovakia". HAEFLIGER then reports "under these circumstances the conference on the "M" matter took on highly significant features". HAEFLIGER realized that the matter had become "deadly serious". This secret note was introduced after HAEFLIGER had testified that until September 1939, he was uninformed of mobilization plans other than deferment questions. His secret note reveals that on 12 March 1938, the day following this meeting, HAEFLIGER swore a secret oath at the Reich Ministry of Economy and that he then heard in greater detail of the steps Farben had taken in its mobilization plans, the content of which he did not feel free to report even in this secret note. In the mobilization discussions of the Commercial Committee meeting of June 1938, attended by HAEFLIGER, it was noted that the Commercial Committee considered it necessary that in general questions of military economy, Farben not as a single entity in their relations with the authorities (This point was placed on the agenda of the next Vorstand meeting) and in July 1938, at the Commercial Committee meeting attended by HAEFLIGER, Von Schnitzler reported on negotiations with the Governmental authorities, including the labor offices on mobilization questions. In March,

May, and June of 1939, the Commercial Committee discussed mobilization questions and HAEFLIGER attended all of these meetings. HAEFLIGER also attended the Commercial Committee meeting of April and May 1940 at which the question of collaboration with the intelligence department of the OKW was discussed and the meeting of July 1941, at which the measures concerning Farben's collaboration with the Intelligence Department of the OKW were approved. (PE 250, NI-7621; see also Part VI, "W-Erich von der Heyde", below, for a discussion of these measures).

(7) Like the other defendants, HAEFLIGER emphatically denied that he regarded Germany's rearmament measures as preparation for aggressive war. He testified that "I always thought of Germany as representing the defensive point of view. I remember particularly that on the 6 September, 1938, the German-French peace agreement was considered by me with great joy as a further guarantee of the peace" (Tr. 9142). But in the months following the meeting of 11 March 1938, when the probability of the "short thrust" into Czechoslovakia was discussed, the defendant HAEFLIGER and the other defendants were engaged in consolidating the German position in Austria and in preparing for the "short thrust" in Czechoslovakia. HAEFLIGER played a leading role in Farben's activities in Austria and Czechoslovakia. He was present at most of the Commercial Committee meetings which discussed Farben's activities and interests in Austria and Czechoslovakia beginning in September 1937 (PE 1069). He was present at a meeting which discussed these matters held in September 1937; February, March, April, May, June, October, November, and December 1938; January, March, April, May, and June 1939; August, November, December 1940; May, July, November 1941; January, February, July and September 1942; April 1943, and December 1944. In the end of March 1938 and the first week of April, HAEFLIGER was in Vienna, negotiating with the various German officials and Party leaders including Veesenmayer and Keppler concerning Farben's control of the chemical industry in Austria (PE 1072, NI-3981, Book 52, Page 96). At that time HAEFLIGER



"took advantage of the opportunity pursuant to a cue from Mr. Koppler - to sound him on the attitude of German authorities as to exerting influence on enterprises in Sudeten Czechoslovakia" (supra page 97). Immediately thereafter on April 9, 1938, HAEFLIGER and Ilgner's deputy Krueger submitted to Koppler the "New Order for the Greater Austrian Chemical Industry" (FE 1040, NI-4024, Book 52, Page 24). On the 19 April 1938, HAEFLIGER together with the defendants Kuchne and Ilgner attended a special Farben meeting on Austria. Reports submitted by HAEFLIGER "some of which were already in writing and some delivered again during the meeting", revealed that "the Party as well as the authorities in the Reich proper and German Austria have no fundamental objections to our long cherished plan of uniting the chemical industry of Austria... and that they recognize our presence in the business management of the two enterprises". Detailed discussions were held at the meeting concerning steps to be taken in connection with the Austrian Chemical Industry (FE 2001, NI-6070). The Commercial Committee meeting on 22 April 1938, attended by HAEFLIGER, received a report of this meeting and the discussion was devoted to the situation which had arisen through the incorporation of Austria (FE 1069, NI-9289). Farben's relations with Aussig in connection with its interest in Czechoslovakia and the Southeast Europe was also discussed and at Ilgner's proposals it was agreed that the Sudeten-German press would be called upon in increased measure for publicity (FE 2035, NI-6072). (At the July 1938 meeting, the acquisition of the stock of Skoda Werke Wetzlar was discussed). Following the meeting held in April 1938, where Farben's interests in Aussig were discussed, a special meeting was called by Frank-Fahle on 17 May 1938, the results of which were reported to the meeting of the Commercial Committee on 24 May 1938, attended by HAEFLIGER. (In this connection see particularly FEs 833 and 1612, Tr. 2033 et seq., and the Preliminary Memorandum Brief at pages 96 and 97). This was a meeting at which Farben's Commercial Committee decided

"to employ Sudeten-Germans for the purpose of training them in I.G. in order to build reserves to be employed later in Czechoslovakia". For details concerning HAEFLIGER's activities in Austria and Czechoslovakia and the leading role played by him see the following exhibits. In Austria: see PEs 1071, NI-3982, Book 52, Page 90; 1084, NI-8456, Book 53, Page 31; 1085, NI-9163, Book 53, Page 53; 1103, NI-9626, Book 53, Page 109, 150; and 2022, NI-13037. In Czechoslovakia: see PEs 1108, NI-10402, Book 54, Page 44; 1109, NI-10401, Book 54, Page 48; 1844, NI-13541; 4113, NI-10581, Book 54, Page 61, 63; and 1116, NI-1139, Book 54, Pages 73, 79, 79.

(8) On 5 April 1938, HAEFLIGER attended a conference at Ludwigshafen at which the situation with respect to the procurement of nickel was discussed as well as Farben's arrangements for foreign exchange for the procurement of nickel and molybdenum. It was noted at that meeting that:

"Although it seems that, for the time being, the Military Economy Staff (Wehrwirtschaftsstab) agrees that, on the basis of the discussion with Herr Euler and Herr Meyer-Kuester, the consumption of nickel of the individual German purchasers of nickel (Krupp, D.E.W., etc.) be passed on monthly to Inco/Mond. or to Gardner in England; it should be discussed as soon as possible - it would be convenient on the occasion of the visit of Messrs. White and Hague to Frankfurt/Main on 7 April 1938 - that these reports to England should no longer be made in the hitherto detailed form. It is to be pointed out at the same time that Berlin is very much against such reports, and that for this reason - from a long term point of view - there must be the tendency in Berlin to import into Germany, at the expense of the import of Inco-ore (Inco-Matte), nickel raw materials from another source, the import of which is not linked up with such suspicious conditions from a military economic point of view".

In November 1938, after Germany took over the Sudetenland, HAEFLIGER was informed in response to his request for information concerning Farben's activities with respect to magnesium metal for gun carriage wheels, that "for our light metal territory armament will still probably be the most important factor in the next few years". (PE 2013, NI-10628, see page 3 of the document).

(9) In June of 1939 (Note: Ungewitter was now talking of imminent war with Poland), the question of whether HAEFLIGER should retain his Swiss citizenship, became a problem in Farben. At that time the defendant von der Heyde was asked to take up the question with the competent Reich and Party authorities (PE 2015). A secret letter was written by von der Heyde and Krueger, Ilgner's deputy in Berlin NW 7, to Lt.Colonel Huenermann <sup>1/</sup> of the Military Economy Staff of the German High Command on August 11, 1939. This letter reveals that the question of HAEFLIGER's citizenship had been discussed by the Farben Vorstand in view of the approaching war, and that the Vorstand had decided that particularly in the event of war HAEFLIGER would be in a better position to serve Germany as a Swiss citizen. After pointing out that HAEFLIGER had completely identified himself as a loyal German, that he had served Germany in the first World War (from 1914 to 1919) as head of the War Acids Commission, and that HAEFLIGER wanted to become a German citizen, von der Heyde states (PE 2015):

"However, against this personal intention (of HAEFLIGER), the Vorstand of our firm asked him in view of the export interests of the Reich and our concern, and especially in view of possible war complications, to abstain from acquiring the German citizenship. In regard to the question whether Director HAEFLIGER should acquire German citizenship or remain of Swiss nationality as hitherto, the consideration that Mr. HAEFLIGER with exclusively Swiss citizenship would be in a position, as an expert in the chemical field, to render Germany very good services, is, in our opinion of great importance. Thus, the possibility is given on the one hand, to have an expert who is loyal to Germany, unobtrusively

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1/ Col. (later General) Huenermann testified before this Tribunal in connection with the defense claim that leading members of the High Command did not know of Hitler's war plans. The Tribunal will recall General Huenermann's "confusion" concerning the opportunistic policy of Germany with respect to "international law", particularly after he was confronted with PE 2222 (Tr. 13502-13518). There is no indication that either Gen. Huenermann or the Farben Vorstand criticized von der Heyde for writing of the imminence of war and for planning HAEFLIGER's citizenship accordingly when von der Heyde wrote PE 2015 on 11 August 1939 (our emphasis).



negotiating abroad questions regarding war - and vitally important imports, and on the other hand to assure through him the direction of the absolutely necessary exports which then still would be possible" (our emphasis).

Just before or just after the actual outbreak of war, HAEFLIGER did take up residence in Berlin in conformity with these special arrangements (PE 2015, p.2; Tr.9246). We suppose that the Tribunal is again asked to believe that the Farben Vorstand and some of its liaison agents were again showing special talents of "journalism" or of "window-dressing" in terms of the mentality of the Reich authorities in August 1939. But even if the "window-dressing" claim has any significance here, the significance is that the members of the Farben Vorstand and their Berlin liaison men "dressed up" their plea concerning HAEFLIGER's citizenship in terms of concrete proposals related to the concrete and imminent advent of war.

#### The War Years

(10) On 19 October 1939, HAEFLIGER in a memorandum reviewing the history of Farben's associations with the International Nickel Company, notes that by virtue of these relations Farben was able to obtain the nickel supplies requested by the Reich Plenipotentiary for War (PE 725, NI-9636, Book 39, Page 47). On 17 January 1940, HAEFLIGER received a copy of a letter from Vermittlungsstelle W to a Farben official Schlecht in which stocks of nickel were described as "clearly war supplies". In a letter to HAEFLIGER from a Farben official on 22 January 1940 the "enormous efforts of Farben" in the field of procuring nickel for Germany are described (PE 727, NI-9639, Book 39, Page 54). On 28 March 1940, HAEFLIGER attended a meeting in the Foreign Office in which Germany's nickel supply from Finland was discussed. Pursuant to a request by the Foreign Office a memorandum drawn up concerning Farben's recommendations on securing the supply of nickel in Finland suggests:

"... it is of the utmost importance that strong pressure be brought to bear on the Finnish Government to ensure that the nickel ore extracted and to be extracted in Petsamo be held exclusively at the disposal of the Finnish Government, so that the latter will be able to supply Germany with nickel raw material ...."

(PE 728, NI-9637, Book 40, Pages 1,5).

In June 1940, HAEFLIGER attended the Commercial Committee meeting at which Farben made preparations for the New Order Plans of a Europe dominated by Germany. (PE 818, NI-6293, Book 45, Page 140). At this meeting, in February 1941, HAEFLIGER reported on the negotiations with the German Offices and the Finnish Government delegation, as a result of which a certain quantity of nickel was to be granted to the I.G. for German requirements through a trade treaty shortly to be concluded between Germany and Finland (PE 818, NI-6293). At the Commercial Committee meeting in November 1940, HAEFLIGER reported on the negotiations on the magnesium question, on the nickel deposits in Finland and on the Kola Peninsula, and on Dr. Berkemeier's trip to Russia (PE 866, NI-6162). In February 1941, HAEFLIGER attended a conference in the Reich Air Ministry concerning the Light Metal Factory in Hæroen, Norway. At the end of the meeting at which HAEFLIGER was spokesman for Farben, a representative of the Reich Office for Economic Development supported by representatives of the Reich Air Ministry concluded the meeting

".... with a few words of special praise for Farben's achievements hitherto in the field of armament production, and especially for the promptitude and speed with which Farben had always acted and constructed, without waiting for contracts to be signed. For this reason he would also call upon Farben to the fullest extent in carrying out the Norwegian plans. ...."

In May 1944, HAEFLIGER and Buegin concluded a contract with the Reich Ministry for Air and Supreme Commander of the Luftwaffe for the construction of a plant in Moosbierbaum, Austria, for the production of magnesium. It was agreed that the new plant was "to be available, ready for use and priority shall be given to the execution of Aviation orders" (PE 589, NI-6141, Book 20, Page 76). For one who

claims he always felt he was a Swiss citizen by choice and conviction, HAEFLIGER gave a considerable support to the waging of successive aggressive work by Germany, a country he also supported in the first World War. HAEFLIGER's support of successive aggressive wars, and his role in spoliation and slave labor is described below.

b. COUNT II - PLUNDER AND SPOLIATION

(11) In his dual capacity as a member of the Vorstand and of the Commercial Committee, defendant HAEFLIGER participated in, and authorized, Farben's spoliative activities all over Europe. Farben's Commercial Committee the meetings of which he regularly attended, was particularly a forum for considering Farben's new "participations" once Germany had embarked on her policy of forceful expansion (PEs 1069, 1622, 1623; extracts from the minutes of Commercial Committee meetings). HAEFLIGER's leading part in the acquisition of Austrian chemical enterprises through Farben has been discussed in connection with Count I, supra. As to his participation in the planned spoliation of Soviet Russia and in the accomplished cases of plunder in Poland, France, and Norway, the evidence can be summarized as follows:

Soviet Russia

(12) The policy of plunder planned for Soviet Russia is unparalleled even in the history of the Nazis (Preliminary Memorandum Brief, Part II, Par.15). Again, Farben was a full-fledged partner. (See also brief on Ilgner's responsibility, Part VI-N, infra). In the light metal field, it was defendant HAEFLIGER who, in his correspondence with Farben employee Ziegler, Bitterfeld, revealed his far-reaching goals. In the month following the assault on Russia, the Reich Ministry of Economics and defendant Krauch's office were already "put in charge of preparations for the trustee administration and further operation of Russian plants" (HAEFLIGER's letter to Ziegler, PE-1996). But HAEFLIGER was not yet able to obtain definite information. "At all events", however, "we have filed our claims by way of precaution, and have, thereby, confirmed that we expect a certain recognition for the extraordinarily troublesome negotiations with the Russians



at the end of last year and the beginning of this" (Ziegler's answer to defendant HAEFLIGER, PE 1998). In the same letter, Ziegler, speaking to HAEFLIGER as "amongst ourselves", reveals: "We feel that we should probably prefer a stripping to a trusteeship". That is certainly plain language (see also PE 1997). HAEFLIGER's attempted explanation: Tr.9433-35.

(13) HAEFLIGER also participated in the organization of one of the so-called Monopoly Corporations East, the Chemie Ost G.m.b.H. (PEs 1190, 1564). As to another Monopoly Corporation, the Soda- & Aetzalkalien Ost G.m.b.H., see PE 1568.

(14) As a member of the Vorstand, HAEFLIGER received de Haas's report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (PE 1175). That Farben's participation in such planned "reconstruction" was to Haeffliger's taste, is shown by PEs 1996, 1997, 1998 cited above.

#### Poland

(15) As far as the spoliation of Polish dyestuff factories is concerned, defendant HAEFLIGER conducted the first personal negotiations in the Reich Ministry of Economics on 9 September 1939 when part of the territory where the factories are located, had not yet been conquered (PE 2003). Before he knew that Farben's contemporaneous report on this meeting (PE 2003) was available to the prosecution, defendant HAEFLIGER, on direct examination, had this to say:

"It (the question of the Polish dyestuff factories) was brought up by (Regierungsrat) Hoffmann ...

Mr. Hoffmann said because of the situation it was necessary to appoint a trustee, and he should like to talk to the man responsible for such things in Farben." (Tr. 9177).

The contemporaneous report which was, thereupon, introduced by the

prosecution, puts it this way:

"Haeffliger and Prentzel, in accordance with the teletype message addressed to Dr. Krueger, discussed with him (Regierungsrat Hoffmann) the problem of the availability of experts for ... the Polish dyestuff plants falling into German hands.

Regierungsrat Hoffmann said on this point that, in the case of the above mentioned dyestuff plants, the RWM, on principle and for the moment, did not see any necessity for the appointment of Commissars or other experts who could intervene in the plants".

(PE 2003).

See also affidavit by Hoffmann himself (HAEFLIGER Exh.36) which was made before PE 2003 was introduced. - HAEFLIGER then attended the Commercial Committee meeting of 20 October 1939 where Farben's plans in Poland were discussed in detail, more particularly the organization of a buffer company" for the purpose of continuing to operate Boruta under trusteeship". It was also stated that the Sandonir plant in Poland should be inspected" in order to ascertain whether equipment is already installed there, the transport of which - be it to Germany or to Zgierz (location of Boruta) - would be of interest" (PE 1133). Three days later, Farben director Huenecke wrote up a "Memorandum for Director HAEFLIGER", again dealing with the Boruta plant and the plant of Sandonir (PE 1966). Defendant HAEFLIGER also attended the Vorstand meeting of 8 November 1939 where the reports of the individual Vorstand members revealed Farben's concentrated efforts to penetrate conquered Poland (PE 2120). As to the individual steps taken in Poland, see Preliminary Memorandum Brief (Part II, No.16); as to Farben's defense, see individual brief on ter Meer (Part VI-H, supra).

#### France

(16) Defendant HAEFLIGER was continually informed about the preparation of the Francolor and Rhone-Poulenc spoliation. He attended most of the Commercial Committee meetings where the plans were discussed and reports on their progress made (PE 818, 1622). As a member of the Vorstand, he received the minutes of the first meeting between Farben and the French industrialists at Wiesbaden on 21/22

November 1940 (PE 2195). He also attended the Vorstand meeting of 10 July 1941 where von Schnitzler "gave a report on the negotiations which had been successfully concluded with respect to Francolor (PE 1177).

(17) In his special field, light metal, HAEFLIGER received copy of Farben employee Bollmann's letter to Ziegler where the spoliation in this field was discussed in detail. "The agreement for delivery of more than 7300 tons of alumina to Germany has been rigorously observed up to now, owing to the pressure exercised by Vichy" (PE 1999). With respect to the field of magnesium and aluminum the letter states that if it should prove "impossible to reach a final agreement on the lines we wish", the famous Envoy Hennen (as to him, see PE 2193, 2196) should be contacted by Farben "so that necessary appropriate steps can be taken on his side in Vichy, should our French partners to the agreement produce all kinds of excuses again" (PE 1999). In defense, defendant HAEFLIGER testified that speaking "in rough terms to these producers ... was not at all in accordance with my attitude" (Tr. 9436). At the time, however, no criticism was voiced by defendant HAEFLIGER.

#### Norway

(18) Defendant HAEFLIGER played one of the leading roles in spoliating Norway by misusing her entire industrial capacities, particularly her water power, for the light metal requirements of the German Air Force. The over-all scheme has been developed in the Preliminary Memorandum Brief (Part II, Nos. 25-27), in this brief Part III-B, supra, and, with particular reference to the defense interposed, in the Final Brief on Ilgner, Part VI-N, infra.

(19) As to the first aspect (spoliation of Norway proper), HAEFLIGER's active participation is proven beyond any doubt by contemporaneous documents. See PE 1193, defendant HAEFLIGER's report to the Farben Vorstand on 5 February 1941, at which time Koppenberg's



far-reaching plans were already known: "Farben's considerable interest in gaining a firm footing in Norway" was stressed; PE 587, HAEFLIGER attending the meeting at the Reich Air Ministry of 6 February 1941; PE 1194; PE 1195, another meeting at the Air Ministry, attended by HAEFLIGER; PE 1196, HAEFLIGER negotiated the license fees payable to Farben by Nordisk Lettmetall; PE 1198, contract with Nordisk Lettmetall, co-signed by HAEFLIGER; PE 1199, letter to the Air Ministry, co-signed by HAEFLIGER, emphasizing that the Norwegian plant was erected "in the interest of German armament", also stressing that the German groups, Farben and the Air Ministry, "control ... Norsk Hydro"; and PE 1200.

(20) As to the second aspect (spoliation of the French stockholders), HAEFLIGER was advised of the plans from the very beginning: see PEs 1201, 1204, 1205, all of them, again, contemporaneous documents. See also statement by Ilgner and Bachem (PE 1208, p.2), according to which "HAEFLIGER, Ilgner, Kersten, and later on Bachem ... were active ... from the commercial respectively financial side". The most revealing document in this connection is defendant HAEFLIGER's own Exh.37.. This is a letter written by defendant HAEFLIGER to, a.o., defendants Ambros, Buerger, Kuehne, and Wurster on 7 May 1941. The latter reports on a conference held in Berlin between defendant Schmitz and defendant HAEFLIGER, on one side, and the representative of the Air Ministry and Dr. Koppenberg, on the other side. "Full agreement was also reached on the steps to be taken with regard to the acquisition of the Norsk Hydro shares". On the strength of this document, Farben can no longer separate itself from the German government plans which, from the very beginning, aimed at the exclusion of the French stockholders in the increased capitalization of Norsk Hydro and, thus, at destroying their majority. These plans were known to all defendants involved, at least since Kersten had so comprehensively advised them by his notes of March 1941 (PEs 1203, 1204). While Ilgner had promised the French in March 1941, according to his own admission, that they would be allowed to participate

(Tr. 9649), and while the French proceeded on this assumption as late as 28 May 1941 (PE 2018), Farben, represented by defendants Schmitz and HAEFLIGER, had already reached "full agreement" with the Air Ministry on this matter on 7 May 1941. - With respect to Norak Hydro itself, the document states that "force has been avoided, and the Norwegian group was persuaded to join voluntarily" (HAEFLIGER Exh.37). How "voluntarily" the Norwegians joined in a plan which was to strengthen the Air Force of their conqueror, has been shown by statements of the defendants themselves, in the Final Brief on Norway (Part III-B, supra).

c. COUNT III - SLAVERY AND MASS MURDER

(21) During the war HAEFLIGER spent much of his time at Berlin, at Farben's Bitterfeld plant, and on missions to foreign countries. He cannot escape responsibility for what the Vorstand did by any defense claim that he was more or less a "superfluous" Vorstand member. In his capacity as Vorstand member, HAEFLIGER bears a major responsibility for the activities of Farben in its illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German War effort. HAEFLIGER's responsibility for these crimes as a Vorstand member is fully set forth in Part IV of the Brief.

d. COUNT V - CONSPIRACY

(22) The comments made in the individual brief on the defendant Krauch, Part VI-B, sub-section "d. COUNT V - CONSPIRACY" at pages 41-42, are also applicable to the defendant HAEFLIGER.

5. Proposed Findings of Fact With Respect to the Guilt of  
PAUL HAEFLIGER.

The evidence has established beyond a reasonable doubt, the guilt of the defendant PAUL HAEFLIGER on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant HAEFLIGER under each of these Counts, is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of HAEFLIGER, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) HAEFLIGER's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1925 to 1945; as member of the Commercial Committee; as Deputy Chairman of the Sales Combine Chemicals; and as a member of various committees within Farben.

(b) HAEFLIGER's activities carried on through the instrumentality of Farben included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. HAEFLIGER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of



aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedoms. HAEFLIGER knew this for a number of reasons:

(a) HAEFLIGER knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to HAEFLIGER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in HAEFLIGER's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by HAEFLIGER and the timing of such activities, establishes that HAEFLIGER knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by HAEFLIGER, at which the aims of the Nazi leaders were expressed, and HAEFLIGER's own statements on various occasions, are sufficient in and of themselves to establish that HAEFLIGER had the required state of mind.

(e) HAEFLIGER's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to HAEFLIGER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, HAEFLIGER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant HAEFLIGER.

(a) As a matter of law, even if the facts established that HAEFLIGER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that HAEFLIGER acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant HAEFLIGER knowingly participated in plans to spoliage, and in spoliating, the chemical industries of occupied countries.

2. HAEFLIGER bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. HAEFLIGER played an especially active role in the plunder and spoliation of property in Norway.

3. The alleged defense of duress or coercion is not available to the defendant HAEFLIGER.

(a) As a matter of law, even if the facts established that HAEFLIGER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that HAEFLIGER acted under duress or coercion in carrying out any of the activities specified above.

#### Count III (Sections A and C)

1. HAEFLIGER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. HAEFLIGER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany

and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of HAEFLIGER were, to HAEFLIGER's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. HAEFLIGER continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

6. The alleged defense of duress or coercion is not available to the defendant HAEFLIGER.

(a) As a matter of law, even if the facts established that HAEFLIGER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that HAEFLIGER acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B - Mass Extermination)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. HAEFLIGER participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. HAEFLIGER knew that human beings in concentration camps were being exterminated by gassing.

4. HAEFLIGER either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.



Count V

1. The foregoing activities were engaged in by the defendant HAEFLIGER in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.

2. The defendant HAEFLIGER, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.

Finn BRIEF, PROSECUTION (English)  
PART VI, SECTIONS 0-Q

N - MAX ILGNER

1. Charges in the Indictment. The defendant ILGNER is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation - constituting War Crimes), Count III (Slave Labor - constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to commit Crimes against Peace). The defendant ILGNER took the stand in his own behalf (Tr. 9250 et seq.)

2. General Nature of the Evidence Supporting These Charges.

ILGNER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, ILGNER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camp as tools in the furtherance of the German war effort.

These charges against the defendant ILGNER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant ILGNER sets forth certain highlights in the activities of the defendant ILGNER and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. ILGNER's Positions from 1933 to 1945. The positions which ILGNER held in the financial, industrial, economic and political life



of Germany from 1933 to 1945 are set forth in some detail in FE 297 (see also testimony of ILGNER on direct examination, Tr. 9252 and following). The following positions held by ILGNER during these years are of special significance:

(a) ILGNER was a member of the Vorstand from 1934 to 1945; a deputy member until 1938, when he was appointed a full member of the Vorstand.

(b) Since 1932 or 1933, ILGNER participated regularly in the meetings of the Working Committee (Tr. 9253).

(c) In 1932 ILGNER became a member of the Commercial Committee (K.A.) and also became a member of the reconstituted Commercial Committee in 1937.

(d) From 1926 to 1945 ILGNER was without interruption director of the organization within Farben known as Berlin NW 7. This organization included the following four main departments in addition to other less significant departments: The Economics Department (VOWI); The Central Finance Office (ZEFI); The Office of the Commercial Committee (B.d.K.A.); and the Department for Political Economy (WIPO).

(e) In 1937 or 1938 ILGNER became a member of the Extended Advisory Council (Beirat) of the Economic Group Chemistry (Wirtschaftsgruppe Chemie). In 1941 ILGNER became Chairman of the Committee for South-Eastern Europe of the Reich Group Industry (Reichsgruppe Industrie). He also became Chairman of the Committee of Experts of the Reich Group Industry, on questions of financing industries in Roumania.

(f) In 1938 ILGNER was appointed Military Economic Leader (Wehrwirtschaftsfuehrer).

(g) During 1933 and 1934 ILGNER was a member of the Circle of Industrial Advisors to the Ministry of Propaganda. From 1933 to 1945 he was President of the Karl Schurz Association. In 1931 ILGNER was made advisor to the Economic Association for Central Europe (Mitteleuropaeischer

Wirtschaftstag) and became its Vice-President in 1938.

(h) ILGNER was also member and functionary in numerous German Chambers of Commerce in foreign countries and also member and functionary in many Institutes, Foundations, Associations and Corporations abroad.

(i) In 1933 ILGNER joined the National Socialist Motor Corps as an active member. In 1933 or 1934 he also joined the German Labor Front and in 1937 he became a member of the NSDAP.

4. Certain Specific Activities of ILGNER During the Period 1933 to 1945.

a. COUNT I - CRIMES AGAINST PEACE

(1) During the period of 12 years from 1933 to 1945, ILGNER played a leading role in maintaining and promoting cooperation between Farben and the Nazi Government. During practically the whole period he participated in the decisions of the Vorstand and the Commercial Committee. As head of Farben's Berlin NW 7 office he promoted and directed the propaganda, intelligence and espionage activities of Farben; and as Farben's expert on the promotion of exports, he participated in the formulation of export programs to carry out the Four Year Plan (Tr. 9278 and 9283). The evidence with respect to the activities of Farben's Berlin NW 7 organization, of which ILGNER was the responsible head, have been discussed in the Preliminary Memorandum Brief at pages 63 through 71 and should be considered together with this brief in determining ILGNER's individual responsibility for the crimes charged in the Indictment. In its study of this individual brief, the Tribunal is requested to cross-reference ILGNER's activities with evidence outlined in Part VI, "C - HERMANN SCHMITZ", "D - GEORG VON SCHNITZLER" and "R - WILHELM RUDOLF MANN"; ILGNER was in close contact with the defendant SCHMITZ in Berlin; his activities overlap closely with Farben's first commercial leader, von SCHNITZLER; his conduct dovetails with that of MANN, whose "Bayer" organization was used for much more than normal "commercial" activities abroad.

(2) ILGNER's role in drawing the Nazi Party and Farber together began before Hitler's seizure of power. In 1932 he procured Farben contributions to maintain the office of Funk who was then Economic and Press Advisor to Hitler (Tr. 9672; see also FE 26). In 1933 Funk invited ILGNER to join the Circle of Economic Experts of the Propaganda Minister Goebbels whose aim was to "use the prestige which the men of German economy had abroad to popularize the Third Reich" (FE 378; Tr. 2967 and 2968) and to "see to it that the situation in Germany would be seen in a more favorable light" (FE 26). In agreement with the other members of the Circle, ILGNER undertook these tasks with respect to the United States and France (Tr. 9384). In the spring of 1933 ILGNER brought Ivy Lee, the American Public Relations Expert, to Germany to advise Nazi Germany concerning its propaganda techniques in the United States. In discussing Ivy Lee's testimony before the United States Congressional Committee on Unamerican Activities, ILGNER testified on direct examination that Lee had been denounced to the American Press for "reasons of competition" by Sylvester Viereck "a notorious propaganda agent for the Nazis in the United States" (Tr. 9402). ILGNER arranged for Ivy Lee's visit to Hitler, procured Farben's agreement to pay Lee an annual fee of \$25,000, and provided the staff and organizations from among Farben's employees and Farben's sponsored organizations to carry out the details of the program proposed by Ivy Lee (FEs 777, 776 and 772). In furtherance of the program proposed by Ivy Lee, Farben sent Lee on behalf of the German Government "immense amounts of propaganda material, books, pamphlets, newspaper clippings, documents world without end" (FE 777). Although ILGNER denied in his testimony that the Ivy Lee project was carried out in conjunction with his activities in the Circle of Economic Experts, he testified, in response to a question by his counsel, that in 1933 Ivy Lee approved his membership in the circle (Tr. 9401). It is also undisputed that the Circle of Economic Experts assisted in carrying out some of the tasks proposed by Ivy Lee (FE 772). In 1934 Ivy Lee was back in Germany and ILGNER took him to see Goebbels, von Papen, Neurath and the Reich Minister of



Economics Schmidt to discuss the propaganda program (PE 777).

(3) Also in 1933 ILGNER was appointed President of the Karl Schurz Association, a propaganda organization directed towards the United States. ILGNER asserted that he attempted and succeeded in keeping the Karl Schurz Association free of any Nazi or official influence and that this was principally done by maintaining its financial independence. On cross examination of the defendant ILGNER (Tr. 9675-9683) and Emil de Haas, his assistant in the Karl Schurz Association (Tr. 12107-12115; 12125 and 12126), it was revealed that there is considerable variance between the assertions of the defendant and his witness and the facts. The evidence is undisputed that the two active officials of the Karl Schurz Association, Hans Draeger, the Vice-President of the Association who conducted its affairs in the absence of ILGNER and Emil de Haas, its business manager who was employed by ILGNER in 1933 on the recommendation of Draeger, were both Nazi Party members in 1933 (PE 2322; Tr. 12106, 12108); that members of the Vorstand of the Association included such known Nazis as Hanfstaengel, Hitler's foreign press chief (Tr. 12108), Hans Johst, of the Reich Chamber of Culture (Tr. 12109), and representatives of Ribbentrop's staff (Tr. 12108; PE 2028); that the Association on ILGNER's solicitation received annual subsidies from the Foreign Office (PE 2027); that until 1936 or 1937 representatives of the Foreign Office and the Propaganda Ministry were regularly informed and consulted concerning the Karl Schurz Activities (PE 2325; see also Tr. 12110); and that after 1936 or 1937 such representatives regularly participated in the small executive board meetings of the Association (Tr. 12110; see also ILGNER's Exh. 93); and that in December of 1938 the Propaganda Ministry requested the Karl Schurz Association to install a secret telephone so that in case of mobilization the Association would be available at a moment's notice to carry out its tasks (PE 2326). Under ILGNER's leadership the Karl Schurz Association carried out the propaganda tasks proposed by Ivy Lee (PE 772). It provided contacts for the German Consulates in America (PE 2029); kept Ribbentrop's office informed of "Americans who were fairly important politically"

with whom the Association had made contacts, particularly the "American front line veterans in connection with the Karl Schurz Association" (FE 2028; see also FE 2030, in which ILGNER approves arrangement both with the Foreign Office and Ribbentrop); and on ILGNER's recommendation assisted the Steuben Society in New York, which was "wholeheartedly in favor of the Third Reich" in its task in creating a real "German American Block in the United States" (see FE 2029, p.4, for discussion of problem, and FE 2030, p.2, for ILGNER's suggestion to aid the Society). De Haas, who was ostensibly employed by ILGNER in 1933 for his NW 7 office, was maintained on the Farben payroll although until the outbreak of the war he worked "90%" of his time for the Karl Schurz Association (Tr. 12105).

(4) Although among the circle of experts ILGNER assumed particular responsibility for the United States and France, he did not confine his propaganda activities to those countries. A former Farben official in describing ILGNER's activities stated that in all his travels abroad ILGNER acted as "Good Will Ambassador" making speeches on his trips abroad extolling the virtues of the Nazi program and its effect on the industrial life of Germany (FE 776; see also FE 297). After the collapse of Germany in 1945 ILGNER, in describing his connections with the Nazi Party, boasted:

"Before I start I want to make a remark. I am not going to add my name to the list of those who say today, 'I have been always anti-Nazi'. I know today, that by my cooperation, for what reason so ever, I have helped also do my part, like most business men in Germany, the National Socialist Government to go ahead..." (Tr. 9698).

(5) In 1934 ILGNER went on a trip to the Far East. During this trip ILGNER took "pains to establish better relations between the representatives of the Foreign Organization of the Nazi Party and the German merchants in the Far East" (FE 2351). He brought together the chairman of the German Association and the local leaders of the Foreign Organization of the Nazi Party and tried to induce them to collaborate (supra). As a result of this trip ILGNER prepared a report on the Far East which

was widely circulated by his Berlin NW 7 office among Nazi officials (PE 851). At the request of Lammers, the chief of Hitler's Chancellery, a special copy was prepared for Hitler (PE 762).

(6) In 1936 ILGNER made a trip to South America. During this trip ILGNER again spent a good deal of his time improving relations between Farben's South American agencies and representatives and the leaders of the foreign organization of the NSDAP and advised Farben's agencies and representatives to conform to the wishes of the Foreign Organization of the Nazi Party (PE 772). In his report on the Latin American trip ILGNER noted that the "German element has been particularly well preserved among the numerous inhabitants of German origin, especially in Brazil. As a result of the strengthening of the position of National Socialistic Germany in the field of foreign policy increased prestige was naturally secured in South America too" (ibid, p.34). He also noted with "gratification" that the cooperation of Farben's representatives with the German offices "has become closer and stronger from year to year" and "especially their collaboration with the Foreign Organization of the NSDAP was developing more and more favorably" (ibid, p.33). Shortly after his return to Germany ILGNER sent gifts of Nazi literature and cameras to the various country and district leaders of the NSDAP to assist them in carrying out their tasks (PEs 792, 795, 793 and 794). During the course of this trip ILGNER agreed with the country leader of the Foreign Organization of the NSDAP in Peru concerning the necessity to promote German cultural institutions abroad. As a result of this agreement the Central Committee of Farben made annual donations to cultural organizations (PE 796; see also PE 797). Subsequent plans by ILGNER which were carried out by Farben involved full cooperation between the Foreign Organization of the Nazi Party and Farben's representatives in strengthening German influence abroad, especially through the use of local German community groups.

(7) In January 1937, shortly after ILGNER's return from South



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America, his assistant Schwarte who had accompanied him on his trip wrote to the Foreign Office concerning ILGNER's ideas and proposals with respect to "Defense against the fostering of anti-German sentiment in South America". The program set forth in this letter involved distribution of propaganda material through Latin American Chambers of Commerce, Branch offices of German banks and representatives of German business. The "energetic and far reaching sponsorship of the German school system" is discussed as a measure of "enabling the maintenance of contact with Germany"; the use of German clubs, cultural institutions, films and radio are all mentioned as sources of "important propaganda work for Germany (FE 790). (As to support given by Farben to German schools, cultural institutions and chambers of commerce abroad see prosecution's Preliminary Memorandum Brief, page 58, footnote.) A report set forth ILGNER's plan of utilizing the Germans living abroad both German Nationals and those of German descent for creating a corps of "loyal" workers for the "German cause". This report was submitted by ILGNER to Hitler's Chancellory in April 1947.

ILGNER proposed that the German economy in cooperation with the German Reich and Party agencies abroad should undertake the training of young citizens of foreign countries of German descent so that they acquire a "loyal attitude towards Germany and serve later as reliable stock for the representation of German interests abroad" (ibid, p.67). In transmitting this report ILGNER requested Lammers' approval of sending this report to Rudolph Hess since he had also "covered organizations of the Party (Economic experts - Wirtschaftsreferenten) in my presentation, and having referred to things" which the Landesgruppen (regional groups) and Ortsgruppen (local groups) in the various countries are especially interested as I know (German schools and German newspapers appearing abroad)... (ibid, p.46). ILGNER's report on his Latin American trip also prepared that year contained similar proposals (FE 773). In this report in discussing the training program of foreign citizens of German descent ILGNER stated: "Intensive training in Germany of young Latin Americans of German origin will bring about a regeneration of the type.... it is chiefly the environment of a German community of workers which necessarily creates in the young Latin American the required faithful and loyal attitude towards Germany" (FE 2032; see also FE 818 for similar plans with respect to Southeast Europe). This report also proposed the appointment and use of Farben Verbindungsmaenner abroad. (For discussion of the use to which these Verbindungsmaenner were put and their activities see prosecution's Preliminary Trial Brief, pp. 58, 59, 68, 69; see also FE 842). On August 20, 1937, ILGNER made his report on Latin America to the newly reorganized Commercial Committee. As a result of this report the Commercial Committee approved the appointment of Farben Verbindungsmaenner (FE 362).

(8) On September 10, 1937, ILGNER attended the Commercial Committee Meeting at which it was decided that:

"Gentlemen who are sent abroad should be made to realize that it is their special duty to represent National Socialist Germany. They are particularly reminded as soon as they arrive to contact the local or regional group (of Germans abroad) respectively and are expected to attend regularly at their meetings as well as at those of the Labor Front. The Sales combines are also requested to see to it that their agents are adequately supplied with National Socialist literature."

The defendants assert that the September 10 resolution concerning cooperation with Nazi Party Organizations abroad constituted window dressing intended to appease the demands of the foreign organization of the Nazi Party. This is but one of the many contemporaneous documents which the defendants have asserted were window dressing and did not mean what the plain language indicated. The prosecution is of the opinion that the defendants have waited too long to deny the plain meaning of documents which formed the basis for their operations and activities. MANN testified concerning the resolution: "We handled it as the regulation of a party decree and we brought it to the knowledge of our employees" (Tr. 10321) (PE 360). Frank-Fahle stated in discussing the September 10 resolution that he "hoped that the ardent Nazis on the Farben Staff were impressed that this was not window dressing" (Tr. 2023). It was also decided at the meeting which adopted the above resolution, that "in view of the problems accumulating in connection with the Four Year Plan, rearmament, export, and foreign currency situation, it appears absolutely essential for all agencies of the I.G. to maintain closest contact with the Political Economy Department (WIPO in Berlin NW 7) with regard to conferences or negotiations with authorities, associations, and political organizations, so as to assure a uniform attitude of the I.G. to all these questions."

(9) In April 1937, ILGNER transmitted to Lammers, Hitler's chief of the Reich Chancellery, a memorandum on the "Promotion of Exports within the Framework of the Four Year Plan" (PE 762). In

describing the objectives of this program ILGNER stated "it has the tasks of providing the foreign exchange needed for carrying the Four Year Plan in effect .... until the Four Year Plan begins to affect our own creation of raw materials favorably to import these raw materials which must be imported for simultaneously carrying on increased rearmament irrespective of the foreign exchange needed for food" (Ibid, p. 52). ILGNER's Export Promotion Memorandum was also discussed at this meeting and transmitted to the Trade Branch of the Four Year Plan in response to a request by that branch for Farben's suggestions concerning additional measures to procure foreign exchange (Ibid, p. 85).

(10) SCHNITZLER reported at the meeting of the Commercial Committee on 10 September 1937 on the "M question" and ILGNER was delegated to take up this question together with the head of WIPO, with the Reich Ministry of Economics. The leading role taken by ILGNER and his Berlin NW 7 organization in negotiations with the Reich authorities on the "M question" is fully revealed in PE 250. Questions concerning stockpiling, finance, and personnel were discussed among others under the "M question" in the commercial sector of Farben (Ibid, 3b, see also Tr. 2013). In January 1938, ILGNER reported on the "M question" at a Commercial Committee meeting and informed the committee that the question would be dealt with by the Vermittlungsstelle W. in regard to matters of production and by the Political Economy Department (ILGNER's WIPO) in regard to commercial matters. On 11 March 1938, one day before the Austrian "Anschluss", the Commercial Committee including ILGNER met under highly tense circumstances (PE 893). See Part VI "C - HERMANN SCHNITZ", pp. 60-61, supra.

The defendant ILGNER has testified at great length concerning his alleged desire and activities for "peaceful international collaboration". In view of all the evidence and particularly the secret file memo prepared by the defendant HAEFLIGER (PE 2014), there can be no doubt that he as well as the other defendants knew



that Germany was planning and preparing to move into Czechoslovakia by force of arms if necessary. In March, April, May, June and July of 1938, ILGNER and his organization were in constant negotiation with the authorities concerning mobilization matters (PE 250). The knowledge concerning the "steps Farben had taken towards mobilization" was clearly fully before the defendant ILGNER. In 1938, ILGNER was the highest Farben representative principally charged with dealing with the Reich Ministry of Economics on mobilization questions for the commercial sector. In the months following the Anschluss, and the discussion concerning the short thrust into Czechoslovakia, ILGNER was active in placing Farben's resources to strengthen Germany's position in Sudetenland and its position in international relations as well. On 22 April 1938, during a discussion on Czechoslovakia by the Commercial Committee, ILGNER moved that the Sudeten German Press be called upon in increased measure for publicity (PE 2035). A few days later ILGNER proposed to the Reich authorities the holding of a conference of international industrialists during the Kiel Week, which was described as a "plan for influencing members of the International Chamber of Commerce in the German interest" (PE 2036). The informal character of the Kiel Week was used to promote a better understanding of Germany's economic measures in an inconspicuous manner (Tr. 9692). On 17 May 1938, members of Berlin HW 7 organization held a conference (ILGNER was not present) on Czechoslovakia at which Farben's representative in Czechoslovakia, Seeborn, reported that in all sectors of the population the political and industrial organizations were being reconstructed according to German pattern and to the tenets of National Socialism (PE 836). Certain measures were proposed at this conference including proposals to transfer shares in Farben agencies from Jewish and Czech holders to Aryans; to replace non-aryan lawyer by a Sudeten German lawyer; to begin immediately with the greatest possible speed to employ Sudeten Germans for the purpose of training them with I.G. in order to build up reserves to be employed later in Czechoslovakia (Ida, pp 30,31); and to continue the financial strengthening of Sudeten

German newspapers (Ibid, pp. 33,34). Prior to the conference ILGNER's Information Office (one of the departments within Berlin NW 7) was publishing, in conjunction with an organization sponsored by the German authorities, articles of a "general and particular" nature in "preparation for the gradual financial strengthening of the Sudeten German newspapers" (Ibid, p. 33). The proposals of this conference were reported to the Commercial Committee meeting attended by defendant ILGNER on May 24, 1938 (PE 1612).

(11) In August 1938 ILGNER had been appointed Military Economy Leader at the suggestion of General Thomas, chief of the Military Economy Staff of the OKW (Tr. 9275). At that time the Economic Research Department of NW 7 (VOWI) was cooperating with the Military Economy Staff by placing Vowi reports and information at its disposal (PE 353). As early as 1934 ILGNER requested his VOWI chief Reithinger to place the VOWI archives at the disposal of General Thomas (PE 2336). At ILGNER's request the VOWI reports and information were made available to all Reich authorities (PE 377; see also PE 378; for further discussions of VOWI's activities see Prosecution Preliminary Brief pp. 64-66). During the month of September 1938 VOWI prepared at least ten reports on Czechoslovakia (PE 854). Also in 1938, ILGNER appointed the defendant VON DER HEYDE as Abwehr agent of Farben. VON DER HEYDE's tasks included handling of the "M question" and the transmittal of reports from Farben's representatives abroad to Major Bloch of the Intelligence Department of the Abwehr of the OKW. VON DER HEYDE also referred to Major Bloch, Farben representatives from abroad who visited Germany (PE 164). This arrangement with Major Bloch had been made by ILGNER in 1936 (PE 377; Tr. 9669, 9670).

(12) On the 16 of September 1938, at a Vorstand meeting, the defendants ILGNER, TER MEER, VON SCHNITZLER and KUEHNE were appointed to a committee to make "quick decisions under certain circumstances" on the question of Aussig in the Sudeten Area (PE 2121). On September 22, Farben made a contribution of 100,000 RM to the Sudeten German Relief Fund and to the Sudeten German Free Corps, an organization

engaged in inciting border skirmishes and riots (PE 834; Tr. 1318). See also testimony of Frank-Fahle during his examination concerning this meeting in which he stated that Seeborn was asked during the meeting whether there was any truth in Hitler's propaganda that the Sudeten Germans were persecuted by the Czech and that Seeborn informed them that everything was peaceful (Tr. 2028). On 29 September 1938, ILGNER was informed by VON SCHNITZLER of a discussion he had had with Keppler at the end of the week prior to 29 September 1938, concerning disposition of the management of the firm "Aussig Union" in Sudeten Czechoslovakia "as soon as German Sudetenland comes under German jurisdiction" (PE 1045). On 30 September, the day of the Munich Pact, SCHNITZLER wired Hitler that he was impressed by the return of Sudeten Germany to the Reich "which you my Fuehrer, have achieved" and that "Farben puts an amount of one half million Reichmarks at your disposal for use in the Sudeten German territory". A copy of this wire was sent to ILGNER.

(13) The six months period preceding the attack on Poland was one of close cooperation between VOWI and the Military Economy Staff and culminated in an agreement one week before the attack that VOWI would make all its records and printed material available for the use of the Military Economy Staff and that it would be prepared to answer specific questions of the Military Economy Staff as quickly as possible. The evidence concerning this collaboration is recorded in a weekly file memo of the Military Economy Staff (PE 860; PE 861). ILGNER denies that any such close collaboration existed and through his witness Reithinger, chief of VOWI, asserts that the records of the Military Economy Staff with respect to VOWI cooperation are the products of someone's imagination. (ILGNER Exh. 41). This is another version of the "window dressing" defense of the defendants. In this case, it appears that not only Farben did not mean what it said in the contemporaneous documents introduced by the prosecution but also that weekly reports of the Military Economy Staff and inter-office memoranda of that staff did not mean what the plain language of the docu-



ments indicate (Concerning the credibility of Reithinger's statement and testimony on VOWI's relationship with the Military Economy Staff and other activities of VOWI, see cross examination of Reithinger, Tr. 12911, 12943).

(14) In addition to VOWI's collaboration with the Military Economy Staff during the six month period preceding the attack on Poland, other departments within ILGNER's Berlin NW 7 office were engaged in making preparations for the 1939 Kiel Week conference of international industrialists and economists (Tr. 9825). There has been considerable testimony by the defendant ILGNER and defense witnesses concerning the purpose and aim of this conference. An official memorandum introduced by the Prosecution (PE 779) containing a record of the plans, preparations, and the events of the conference would appear to be the best evidence concerning such plans, preparations and events. This memorandum was prepared by the Director of the Reich Chamber of Economics for the chief of the Reich Chancellery Lammers. It is clear from the document that at a preliminary conference between German industry and official departments, especially the Foreign Office, it was agreed in conformity with the Nazi Policy of isolating its intended victim, to invite representatives from all European countries except Poland and Turkey (Ibid p. 66); the German economists were invited to a meeting for internal clarification of political and economic questions which would be presented by the foreigners; it was agreed that the principle questions of the foreigners would be Germany's foreign policy, particularly with respect to the invasion of Bohemia and Moravia, and it was regarded as necessary to have convincing explanations and arguments at hand (Ibid. p. 63). From the account of the conference itself it is apparent that the conference served the dual purpose of providing Germany's international "friends" with convincing arguments to persuade a Southeast Europe restive with fear after Germany's invasion of Bohemia and Moravia (Ibid, p. 63); to maintain its neutrality and to urge that "smaller countries who willfully maintain their neutrality will have nothing to fear at all from Germany" (Ibid, p. 63);

and at the same time to ascertain the possible position of the European countries in the next aggressive act of Germany (Ibid, p.63). In addition to its participation in the planning of the conference Berlin NW 7 was well represented at the conference. Krueger, deputy to ILGNER, Frank-Fahle, Hackemann, from ILGNER's directorate department, Reithinger, chief of VOWI, and Ter Haar acting chief of WIPO (Ibid, p. 74 thru 77). The defendant SCHMITZLER also attended the conference (Ibid,p77). Frank-Fahle and Krueger acted as hosts for the occasion (Ibid, supra 79-82).

(15) ILGNER asserts that he was ill during 1939 and therefore could not be held accountable for the activities of Farben during that period. The evidence shows however, that despite this illness, the defendant maintained his contact with Farben and participated in its affairs, and particularly exercised his control over his Berlin NW 7 organization. In the early part of 1939 personnel changes, promotions, and assignments in Berlin NW 7 were made by the defendant ILGNER (PE 2026). A special branch office of VOWI was established in Vienna in March 1939 (PE 858), at the request of ILGNER (ILGNER Exh. 37; see also ILGNER Exh. 40). Two weeks before its opening, information and reports of the Vienna Branch Office were offered to General Goutier of the Office of Military Economy, by the defendant GATTIENAU (PE 858), with the approval of the defendant ILGNER (ILGNER Exh. 44). (For military significance of information transmitted to General Goutier see PE 859; PE 862; PE 863; see also PE 355, indicating that ILGNER was in contact with VOWI in August 1939).

#### THE WAR YEARS

(16) Shortly after the attack on Poland, the agreement of ILGNER's deputy chief of Berlin NW 7, Krueger, and Reithinger, chief of VOWI, to place VOWI's reports and files at the disposal of the Military Economy Staff of the OKW and to be prepared to answer all questions put to it, ripened into complete collaboration. VOWI and most of its personnel were placed in the full time direct service of the Military Economy Staff and furnished it with information and data essential to the waging of the war and to the plans for each succeeding

act of aggression (PE 843; PE 850; PE 857). (For discussion of military character of information prepared by VOWI for the OKW see Preliminary Memorandum Brief page 66 footnote). ILGNER on his own request was kept informed of the work prepared by VOWI for the OKW (Tr. 9494, 9495).

(17) In 1940 ILGNER and his Berlin NW 7 staff were active in plans for a new order in Europe dominated by Germany (See Preliminary Memorandum Brief pp 74, 75). WIFO was given major responsibility in collecting the data and dealing with the authorities on this question (PE 818). ILGNER was placed in charge of the New Order plans with respect to Southern Europe, Scandinavia, and the Baltic area (supra pp. 135, 136). (ILGNER also transmitted to the Reich Ministry of Economics Farben's plans for domination of the chemical industry of Holland (PE 1054). In one of his statements ILGNER pointed out that during the war years he mainly concerned himself with questions of the Southeast and with light metal problems of the Norsk Hydro and the Nordisk Iettmetall at Oslo (PE 297). Both areas were heavily exploited by Farben in agreement with the Nazi Government for use of the German War Machine. (See Preliminary Memorandum Brief Part II, pp 31 and 32 for details of Farben's plans with respect to Norway.)

(18) In April of 1939 KRAUCH stated in a secret report to Goering that the Southeast Europe had to become "the center of development of raw material production to provide a surplus supply area" to meet the military economic needs of the Axis partners (PE 455). On cross examination ILGNER admitted that he knew that exploitation of the raw material supply of the Southeast was essential to Germany's war plans (Tr. 9694). He also stated on cross examination that he informed KRAUCH concerning his activities in the Southeast (Tr. 9699). In September of 1940 ILGNER addressed a meeting of the Central European Economic Society (Mitteleuropaischen Wirtschaftstages) at which he pointed out that the German Economy had gained considerable help in the development of its economic relations in the Southeast European countries from the foreign policy of the Nazi regime and that the principle task confronting German economy was the "stimulation in the Southeast European countries of agricultural production and the production of raw materials sufficient to cover the German needs" (PE 2037).

(19) In September 1941 ILGNER reported to the Commercial Committee on the setting up of a South Eastern Committee of the Reich Group Industry under his chairmanship. The task of this committee was to coordinate the economic activities of the Southeast countries with the needs of the German War Economy by drawing the economic circles of the countries concerned into closer contact (PE 496). In 1942 ILGNER became chairman of the Committee for Southeastern Europe of the Economic Group Chemistry.



b. COUNT II - PLUNDER AND SPOLIATION

(20) In his dual capacity as a member of the Vorstand and of the Commercial Committee, defendant ILGNER participated in, and authorized, Farben's spoliative activities all over Europe. Farben's Commercial Committee, the meetings of which he regularly attended, was particularly a forum for considering Farben's new "participations" once Germany had embarked on her policy of forceful expansion (FEs 1069, 1622 and 1623; extracts from the minutes of Commercial Committee meetings). ILGNER's leading part in the acquisition through Farben of the chemical enterprises in both Austria and Sudetenland has been discussed in connection with Count I, supra. As to his participation in the planned spoliation of Soviet Russia and in the accomplished cases of plunder in France and Norway, the evidence can be summarized as follows:

Soviet Russia

(21) Just two weeks had passed since the assault on Soviet Russia when defendant ILGNER revealed his plans with respect to Russian industry. According to the minutes of a meeting on 7 July 1941 (FE 1176), defendant ILGNER instructed "Gierlichs to work out ... suggestions for the re-organization of Russian enterprises under German leadership on the pattern of Aussig-Falkenau". What "Aussig-Falkenau" stood for, defendant ILGNER certainly knew. The "pattern" consisted in Farben's appointing trustees and, later on, acquiring title to the enterprises under its trusteeship. Accordingly, defendant ILGNER in this same meeting dealt with "the negotiations for appointments in Russia". He already had, at that time, discussed the Russian questions with the Reich Ministry of Economics, and reported on said conversation to the Farben Vorstand on 10 July 1941 (FE 1177). In connection with the Aussig-Falkenau pattern just referred to, we can readily understand why he had discussed with the Reich Ministry of Economics which Farben people "appeared suitable to take part in a technical or administrative capacity in the work of keeping the chemical industry going in the former Soviet Union". That Farben "will be appointed as trustees for

rubber" was already established at this first meeting at the Reich Ministry of Economics (PE 1177). The so-called Eastern Corporations or Monopoly Corporations were also discussed and reported upon by ILGNER in these early meetings (PE 1177; see also PEs 1190 and 1564). As a member of the Farben Vorstand, he received de Haas's report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (PE 1175).

(22) Reviewing Farben's attitude at the time, ILGNER, under his oath, put it this way on 10 April 1947:

"If the German chemical industry took part in the development of the chemical industry in occupied Russia, I.G. Farben stressed that it did not want to be side-tracked" (PE 1209).

This statement is noteworthy in the light of ILGNER's previous reference to the Aussig-Falkenau pattern quoted above, and in the light of the de Haas report. It should also be noted that ILGNER saw fit to "delete" the above statement more than one year after he had made, corrected, and sworn to it - by another statement, also under oath, of 16 April 1948 (ILGNER Exh. 195).

#### France

(23) As a member of the Commercial Committee, defendant ILGNER was kept informed about every step taken in connection with the Francolor matter (PE 1622). He also participated in the Commercial Committee meeting of 29 June 1940 where the "New Order" report was being prepared (PE 818). On 25 September 1940, he took part in the Commercial Committee meeting where it was "agreed that, concerning direct negotiations with the French partners, to begin with one should just wait" (PE 369). As a member of Farben's Vorstand, he received Farben's minutes on the Wiesbaden meetings with the French industrialists of 21-22 November 1940 (PE 2195).

(24) He attended the meeting of the Farben Vorstand of 12 December 1940 where defendant MANN reported on his negotiations with

Rhone-Poulenc (FE 1270).

(25) It was defendant ILGNER who, in Dr. Michel's office, raised the question of the "transfer of closed-down French factories to South-Eastern Europe" (FE 1323). Dr. Michel was the Chief of the Superior War Administration with the Military Commander in France. Michel felt that, in view of "the so-called Sauckel action, requisition of some 350,000 French workers for employment in Germany, the French official department had been promised that the machines would remain the property of the French owners in France... It was, however, possible that the situation might change after some time" (FE 1323).

#### Norway

(26) Defendant ILGNER is deeply involved in the case of Norwegian spoliation. As to the individual steps taken by Farben, the scheming, and the results, reference is made to the Preliminary Memorandum Brief (Part II, pp. 25-27) and to this brief (Part III-B, supra).

#### First Aspect: Spoliation of Norway Proper

(27) Not being a "technical" man, defendant ILGNER, of course, did not draft the spoliative light metal program planned for Norway. But once Goering and his staff had conceived it, and defendant KRAUCH had recommended to Farben its participation on the largest scale possible, ILGNER was one of the most active members of the Farben Vorstand in carrying it through. It was defendant ILGNER who negotiated the deal with Norsk-Hydro in early 1941, and reported on it to the Commercial Committee on 18 March 1941 (FE 1623, p.4). It has been shown that the outspoken purpose of this project was the exploitation of the entire Norwegian economy for the German Air Force (FEs 1193, 587, 1194, 1195 and 1197; see also KRAUCH on direct examination, Tr. 5396). Norway's tremendous water power was to be used for supporting giant new light metal plants which, in turn, were to supply the Wehrmacht of Norway's conqueror (FEs 585, 1196, 1199 and 1211). Though fully aware of this purpose, defendant ILGNER saw fit, at the time, to participate in this



project, and to have the Norwegian market and Norwegian industrial groups finance it "to the fullest possible extent" (PE 1623, p.4). According to his report of 18 March 1941 just referred to, he estimated an over-all requirement of about 1 billion Norwegian Kronors out of which 40% was to be financed by Norway herself. In conducting his negotiations in Norway, ILGNER acted "in agreement with general director Koppenberg"; he also points to the fact that "the results had since been approved by the Reich Air Ministry" (PE 1623, p.4). Again, it was defendant ILGNER who, on 15 September 1941, sent a circular letter to all members of the Farben Vorstand (PE 1191, p.29), commenting upon and enclosing the "Norway memorandum". He requests the Vorstand "to approve", without delay, the suggestions he encloses since he would like to submit them to the competent officials. Unless he be advised to the contrary, he will "assume that you are in agreement with the proposals". When reading the suggestions which are attached to ILGNER's letter, particularly p. 31, referring to "the operation of light metal plants (in Norway) which are of vital importance to Germany", we should bear in mind that the man advertising these proposals is identical with the man who, in his testimony before this Tribunal, called this very same project a "crazy expansion program" (Tr. 9580). That the execution of this "crazy" program exposed the Norsk Hydro plants to Allied air bombing, and caused Norsk Hydro a loss exceeding 50 million Norwegian Kronors, has been admitted by ILGNER (Tr. 9659).

Second Aspect: Spoliation of the French Majority Holders in Norsk Hydro

(28) Here, ILGNER's part is even more predominant. It was defendant ILGNER who, from the outset, conducted the negotiations with the Nazi authorities (PE 1205), with the men in charge in Oslo (PE 1205; see also ILGNER on direct examination, Tr. 9622), and - as far as there were "negotiations" at all - with the representatives of the Banque de Paris et des Pays-Bas in Paris, hereinafter called Paribas (PEs 1205 and 1208; see also ILGNER, Tr. 9626, 9654 and PE 1323). It has been shown in this brief (Part III - B, supra) that, contrary to ILGNER's sworn

statements (his affidavit, Exh. 210) but admitted by ILGNER himself in his direct examination (Tr. 9624), the French stockholders who had built up the Norsk Hydro corporation (PE 1208), held the majority in said corporation up to 1940; that it was the German plan to deprive them of such majority; and that, eventually, I.G. Farben/I.G. Chemie, together with the German Air Ministry or its agencies, became majority holder in Norsk Hydro. It has also been shown that the increase in capital stock of Norsk Hydro was closely connected with the German desire of acquiring such majority.

(29) Defendant ILGNER's principal defense is to the effect that the representatives of the French stockholders, the Paribas, was fully advised of the intended increase in Norsk Hydro's capital stock (ILGNER Exhibit 210; see also Transcript page 9618), and also of the intended organization of the Nordisk Lettmetall (Tr. 9581), and that the Paribas expressly approved of these steps (Tr. 9581, 9618).

(30) Before weighing the evidence introduced by defendant ILGNER, we should realize the circumstances which presented themselves to the French at that time. Both France and Norway had fallen victims to German aggression and were now, 1940/1941, under Germany's belligerent occupation. The French stockholders had organized Norsk Hydro in or about 1905, and had continually been majority stockholders in this corporation, Norway's most important industrial enterprise. The measures now being planned by the Germans were to achieve two ends: First, to organize a light metal corporation for supplying the German Air Force (PEs 1193, 1194, 1195 and 1197), and to use for this purpose the facilities of Norsk Hydro (PE 586); and, second, to increase the capital stock in Norsk Hydro, excluding any French participation, and thereby diluting the old-established French majority into a minority (PEs 1203, 1204, 1206; see also Tr. 9624). In other words: Not only were the steps planned by the Germans directed at the strengthening of the German Air Force and, thereby, diminishing the hope of both France and Norway to be liberated; they were, at the same time, to deprive the French of one of their most valuable foreign participations. Without

consulting any document, just using common sense and general experience, we can state that a Frenchman - not being a Quisling nor acting under coercion and restraint - could not normally have consented to these steps. As a matter of fact, the evidence introduced, including ILGNER's, leads to no other result.

(31) The general meeting of Norsk Hydro's stockholders, dealing with the increase in Norsk Hydro's capital stock and its participation in Nordisk Lettmetall, took place on 30 June 1941 (ILGNER's affidavit, his Exh. 210, Book XII-A, p.54). ILGNER now admits that "the French ... were not represented at this general meeting". (In his cross examination he pretended not to know, Tr. 9657). The French were not even advised of the agenda, more particularly of the all-important contracts to be entered into concerning Nordisk Lettmetall. While Norsk Hydro had asked defendant SCHMITZ in May 1941 to transmit the necessary information to the French (PE 2019), ILGNER's office, taking shelter behind an alleged government order (which is not part of Farben's records, and has not been introduced by any of the defendants), turned down this request, and advised Norsk Hydro that it would only transmit to the French some very minor points (PE 2019). Farben also turned down the French request for having the general meeting of stockholders postponed from 30 June to a later date - this time taking shelter behind an alleged refusal on the side of Norsk Hydro. On its own initiative, ILGNER's office adds that "for the defense and safeguarding of the rights of the French shareholders, the presence of all of them is not absolutely essential" (PE 2020).

(32) As against these facts, ILGNER asserts that the French members of Norsk Hydro's Board, t.w. Moreau and Wibratte of the Paribas, were informed about the proposals by receiving "files from Norsk Hydro which contained the necessary documents for the decisions to be made" (ILGNER Exh. 210, Book XII-A, p.52). Farben, he asserts, helped in informing the French Board members. To prove this, ILGNER (in his affidavit, ILGNER Exh. 210) refers to seven documents introduced by him, namely: Document Numbers 208 (Exh. 214), 210 (Exh. 216), 211 (Exh. 217),



212 (Exh. 218), 214 (Exh. 220), 218 (Exh. 224) and 219 (Exh. 225). Even a hasty glance at the index of his Book XII-A shows that none of these seven documents (which, by the way, contain no pertinent information) was transmitted to the French prior to 30 June 1941. The only document which, in the index, is listed under the date of 21 February 1941 (ILGNER Exh. 225) should read, as the document itself reveals, 21 February 1944.

(33) In fact, no pertinent information was given to the French, more particularly with respect to the most important point of the agenda, Norsk Hydro's participation in Nordisk Lettmetall, and the funds required for this giant project. It would seem that, in March 1941, the French were advised that the Nordisk Lettmetall was planned, and that Norsk Hydro should take over one third. To this plan, the Paribas agreed by letter of 26 April 1941 (ILGNER Exh. 263). There is no indication, however, that the French were advised of the purpose of Nordisk Lettmetall (procuring light metal for the German Air Force) and of the extent of the investment. If Norsk Hydro was able to lose more than 50 million Kronors on this venture (Tr. 9659), Norsk Hydro participated not only to the extent of its capital participation of 15 million Kronors but in an amount many times that high. All this was concealed from the French though Farben knew from the very beginning what kind of an investment was planned (FE 1195). Full proof that the French were left unadvised about Nordisk Lettmetall, is established by FE 2021, Eriksen's letter to ILGNER of 19 November 1942. Eriksen here emphasizes that Wibratte, according to a letter he had just sent to Eriksen, has not even now (November 1942!) received "the personal orientation about the participation of Norsk Hydro in Nordisk Lettmetall which I had promised in my letter to him of 24 November of last year". It should also be noted that, when the French - on 26 April 1941 - agreed, they were led to believe that they would be able to participate (ILGNER's admission, Tr. 9649) while, in fact, it was a foregone conclusion that they were to be excluded (FEs 1203 and 1204).

(34) ILGNER then asserts that, at the special request of Norsk

Hydro, the French stockholders, represented by Paribas, "subsequently" consented to the resolutions passed on 30 June 1941. ILGNER refers in this connection (ILGNER Exh. 210, Book XII-A, p.54) to his documents 223 and 224 (Exhibits 229 and 230). In fact, however, ILGNER Exhibit 229 is just ILGNER's request addressed to Wibratte that he should consent to the increase of capital in Norsk Hydro. The Nordisk Lettmetall is not even being mentioned. ILGNER Exhibit 230 pretends to quote telegrams allegedly sent by Paribas to ILGNER. These telegrams, however, do not agree to the resolutions passed by the meeting of stockholders on 30 June 1941. There is no indication that such resolutions, more particularly as far as they refer to Nordisk Lettmetall, were known to the French at that time (compare FE 2021 and ILGNER's vague statement, ILGNER Exh. 210, Book XII-A, p.53). The two telegrams only refer to "proposals submitted by the director general at the conference of 14 July" (ILGNER Exh. 230), and have, therefore, no bearing on the issue before us. After the fatal resolutions of 30 June 1941 were passed by the German stockholders who were virtually the only ones represented, the French were faced with the accomplished fact that there would be an increase in Norsk Hydro's capital stock, without their own rights being protected. ILGNER admits that in March 1941 he had promised the French that they would be able to participate in the increased capitalization of Norsk Hydro (Tr. 9649). The French, thereupon, proceeded on this assumption (FE 2018). Then they gradually found out that they would not be allowed to participate at all <sup>1</sup>. Under these circumstances, all they could eventually do was negotiate the purchase price for the pre-emptive rights which they themselves, under the spoliative plan, were not allowed to exercise.

(35) In the negative, ILGNER's documents show that there was no further discussion between the French stockholders (Paribas) and the Norwegians since March 1941, so that ILGNER's attempted defense on

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<sup>1</sup> ILGNER, Tr. 9655: "We talked (on 20 June 1941) about the impossibility of the transfer..." In fact, as is shown by FE 1204, the French, at that time, had large credit balances in Norway!

redirect examination (Tr. 9738) and in his latest affidavit (ILGNER Exh. 195) is clearly rebutted. In fact, we have here another example of defendant ILGNER's lack of veracity. In his "Affidavit for the correction and adjustment" of previous affidavits, made by him on 16 April 1948, and submitted on 10 May 1948 (ILGNER Exh. 195)<sup>1</sup>, ILGNER "corrected" his former affidavit (PE 1209) by striking out the phrase:

"I do not know in detail the motives which guided the French bank when it agreed to the increase of the capital stock of Norsk Hydro by which procedure the French majority interest was reduced to a minority interest. I should say they chose this alternative as the lesser evil, and because, in the last analysis, I.G. Farben participated and advised the bank to agree ..."

He now says (his Exh. 195):

"I myself never possessed any exact knowledge of it as the negotiations with the French which led to consent by the French to the light metal scheme in Norway, were conducted by the President of Norsk Hydro, the banker Wallenberg."

Wallenberg, of course, is dead. But ILGNER introduced (again on 10 May 1948) the affidavit of Wallenberg's son (ILGNER Exh. 260) from which it appears that Wallenberg's visit to Paris took place in March 1941. The son does not report on any other visits; nor were there any. In March 1941, Wallenberg (father), according to the "verbal reports" the son received at the time, discussed this matter with the French and "expressed himself (sic!) in favor of a capital increase". He did not say that the French agreed although, at that time - March 1941 - defendant ILGNER had promised the French that they would participate in the increased capital stock (Tr. 9649). After March 1941, ILGNER's documents do not show any further personal contact between the French and Mr. Wallenberg, and the son's affidavit distinctly points to the contrary.

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<sup>1</sup> The time was well chosen: Under the court calendar, the affiant could not practically be exposed to cross examination. Nor could he be confronted any longer with the related interrogations! As to the "corrected" affidavit here involved (PE 1209), see also ILGNER on cross examination (Tr. 9704). If all the statements ILGNER made under oath, now need comprehensive and partly basic corrections (see ILGNER Exh. 188-195), it cannot be seen why the last sworn statement, the "correcting" affidavit itself, should be more reliable.



ILGNER's defense that the French agreed, as advanced in his "correcting" affidavit (his Exh. 195) and on direct examination (Tr. 9738):

"They (the French) agreed to all arrangements orally with the Norwegians",

is without any basis (see also ILGNER's testimony, Tr. 9581, 9582, 9618, 9619, 9620 and 9649).

(36) In the closing days of the trial the defense submitted new documents, among them excerpts from Farben's telegram of 29 April 1948 to Norsk Hydro (ILGNER Exh. 261) and Norsk Hydro's answer of 6 May 1948 (also ILGNER Exh. 261). It does not appear who is the sender of the cable. Eriksen, according to a statement made by the defense, is not available and, obviously, not the author. The only interesting point is No. 6. Here, Farben cabled the leading question:

"When and which way was consent by Moreau, Oster, Schmitz, and Wibratte regarding increase of Hydro capital sent to management Oslo?"

This implies that Moreau and Wibratte did consent. In fact, however, the answer only refers to the telegram of the "French Board members 1 August via I.G. Farben Berlin". This is the telegram (ILGNER Exh. 230) which was already before us, and which is discussed above, No. (15). It does not refer to the stockholders' meeting of 30 June but "to conditions of capital increase as stated by director general at conference of 14 July", i.e., it refers to a time when the increase of capital was already an established fact.

(37) The procedure followed by the defense has raised great difficulties for the prosecution in assisting the Tribunal to find the truth. In rebuttal of ILGNER's testimony, the prosecution had offered the affidavit by Jacques Allier who is the President of the Supervisory Board of Norsk Hydro and Assistant Manager of the Paribas, where the full story of how the French were deprived of their stock majority has been given. On motion of the defense, this affidavit was stricken (PE 2171, rejected). Thereafter, the defense introduced ILGNER's Books XII-A and XII-B, together with a Supplement Book, altogether 72 documents (including 13 affidavits). The prosecution pointed to the fact

(Tr. 14084) that, in the meantime, it had received word from Wibratte, main representative of the Paribas at the time and today, to the effect that he fully subscribed to what Monsieur Allier had said in his affidavit. But under the court calendar it was already too late for having the affidavit introduced. Again, about one week later (on 14 May 1948), an additional book containing ILGNER defense documents was made available to the prosecution (Supplement to Document Books XII-A and XII-B; ILGNER Exh. 260-264). We are now faced with the situation that the decisive attitude taken by the Paribas, and particularly by Monsieur Wibratte, cannot be proved by his own testimony or by the testimony of his close collaborator, Monsieur Allier. Instead, we are asked to rely on affidavits where the affiants cannot be cross examined, and where, besides, they make statements on what deceased people, Wallenberg and Aubert, told them about the then attitude of this very Monsieur Wibratte. In addition, we have to construe telegrams which are incomplete, not signed, and which cannot be clarified by either cross examining the affiant or introducing documents in rebuttal.

(38) In spite of all that, the facts clearly established by the evidence, including ILGNER's own, can be summarized as follows: The French were not represented in the crucial meeting of 30 June 1941. They never agreed to the resolutions passed there. They did not even know about the circumstances leading up to the organization of the light metal corporation and Norsk Hydro's participation therein. Farben, particularly ILGNER, who took charge of advising them, failed to do so. In consequence of the steps taken, the French lost their majority share in Norsk Hydro against their own will. The evidence also establishes the leading part played in the entire transaction by defendant ILGNER.

c. COUNT III - SLAVE LABOR AND MASS MURDER

(39) General reference is made to Part IV of this brief. The defendant ILGNER was a member of the Vorstand; Commercial Committee, and plant leader of Berlin NW 7. He was also a member of the important

Plant Leaders Conference (Betriebsfuehrer Besprechungen). The meeting of the plant leaders preceded the meeting of the Enterprise Advisory Council. Both of these meetings were called and presided over by the Chief Plant Leader, the defendant SCHNEIDER. In the meetings of the Plant Leaders, the agenda for the Enterprise Advisory Council was covered. The decisions which were finally put into effect were based upon the discussions in which the members of the Plant Leaders Conference participated (FEs 1329 and 512). ILGNER was interested in and well informed of the penalties at the disposal of the plant leaders for the maintenance of the morale and for security purposes (FE 1311). In addition to the knowledge which ILGNER acquired of Slave Labor through his participations in the Vorstand Meetings and the Plant Leaders Conference, ILGNER also acquired such knowledge in the course of other conferences and meetings. For example, in the course of his spoliative activities in France, discussions of the so-called Sauckel Action in connection with Slave Labor took place. At a conference on 9 June 1942 with Michel, chief of the Superior War Administration and the military commander in France, in which ILGNER participated, it was noted that:

"On the question raised by Herr Dr. Ilgner and dealing with the transfer of closed-down French factories to South-eastern Europe, Herr Dr. Michel remarked that this question cannot be dealt with for the time being, as, on the occasion of the so-called Sauckel-action [requisition of some 350,000 French workers for employment in Germany], the French official departments had been promised that the machines would remain the property of the French owners in France" (FE 1323).

(40) ILGNER does not deny knowledge that Farben employed Foreign Workers and prisoners of war (Tr. 9564, 9565). The defendant himself employed Foreign Workers and prisoners of war in the construction of office huts and emergency homes for MW 7, for the evacuated plants at Euk and Kneden, and to repair bomb damage to the administrative building in Berlin (Tr. 9567). ILGNER testified that these workers were put at his disposal from time to time by individual Farben plants, (Tr. 9567). The defendant, however, asserts that these workers were



well treated by Farben and makes reference to special kitchens set up by Leuna for the Foreign Workers. According to his testimony ILGNER was impressed that "such a big plant was able to treat its Foreign Workers so humanely and so cleverly from a psychological point of view" (Tr. 9567). The defendant also testified that he had no knowledge that the foreign workers were brought to Germany under compulsion (Tr. 9565). Concerning these contentions, reference is made to Part IV of this brief which discusses the extent of the knowledge and participation generally of the Vorstand members in the war crimes and crimes against humanity charged in Count III.

d. COUNT V - CONSPIRACY

(41) The comments made in the individual brief on the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant ILGNER.

6. Proposed Findings of Fact with Respect to the Guilt of Max ILGNER.

The evidence has established beyond a reasonable doubt the guilt of the defendant Max ILGNER on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant ILGNER under each of these Counts is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of ILGNER, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) ILGNER'S activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1934 to 1945; as a member of the Commercial Committee; and as Chief of Farben's Berlin Northwest 7 from 1932 to 1945.

(b) ILGNER'S activities in other positions, including his activities as a member of the Circle of Economy Leaders of the Ministry of Propaganda; President of the Karl Schurz Association; member of the Extended Advisory Council of Economic Group Chemistry;

and as Chairman of the Committee for Southeastern Europe of Reichs Group Industry.

(c) ILGNER'S activities carried on through the instrumentality of Farben and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. ILGNER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. ILGNER knew this for a number of reasons:

(a) ILGNER knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to ILGNER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in ILGNER'S position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi government, and the general measures of rearmament, the nature of the activities carried on by ILGNER and the timing of such activities, establish that ILGNER knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by ILGNER, at which the aims of the Nazi leaders were expressed, and ILGNER'S own statements on various occasions, are sufficient in and of themselves to establish that ILGNER had the required state of mind.

(e) ILGNER'S state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to ILGNER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, ILGNER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant ILGNER.

(a) As a matter of Law, even if the facts establish that ILGNER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that ILGNER acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT II

1. The defendant ILGNER knowingly participated in plans to spoliato, and in spoliating, the chemical industries of occupied countries.

2. ILGNER bears a major responsibility for, and know of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. ILGNER played an especially active role in the plunder and spoliation of property in Norway and in the planned spoliation of Soviet Russia.

3. The alleged defense of duress or coercion is not available to the defendant ILGNER.

(a) As a matter of Law, even if the facts established that ILGNER acted under duress or coercion, this would be no defense.



(b) The facts do not establish that ILGNER acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Sections A and C)

1. ILGNER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. ILGNER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of ILGNER were, to ILGNER'S knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. ILGNER continued to take the initiative to obtain such foreign workers, prisoners of war, and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant ILGNER.

(a) As a matter of Law, even if the facts established that ILGNER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that ILGNER acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B - Mass Extermination)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.
2. ILGNER participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.
3. ILGNER knew that human beings in concentration camps were being exterminated by gassing.
4. ILGNER either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

1. The foregoing activities were engaged in by the defendant ILGNER in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.
2. The defendant ILGNER, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.

O - FRIEDRICH JAEHNE

1. Charges in the Indictment: The defendant JAEHNE is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation, constituting War Crimes), Count III (Slave Labor, constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to Commit Crimes against Peace). The defendant took the stand on his own behalf (Tr. 9889, et seq.).

2. General nature of the evidence supporting these charges.

JAEHNE bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, JAEHNE bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant JAEHNE are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part herewith). A summary of specific activities contained in this section of the brief relating specifically to the defendant JAEHNE sets forth certain highlights in the activities of the defendant JAEHNE and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.





3. JAEHNE'S Positions from 1933 to 1945: The positions which the defendant JAEHNE held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in prosecution exhibits 246 and 298 (see also testimony of JAEHNE on direct examination, Tr. 9890 et seq.). The following positions held by JAEHNE during these years are of special significance:

(a) JAEHNE was a member of the Vorstand from 1934 to 1945; from 1934 to 1938 a deputy member; from 1938 to 1945 a full Vorstand member.

(b) JAEHNE was a full member of the TEA from 1933 to 1945.

(c) JAEHNE was chairman of the TEXO (the Engineering Committee of Ferbon) from 1931 to 1945.

(d) JAEHNE was Chief of the Technical Department at Hoechst from 1931 to 1945.

(e) JAEHNE was deputy chief of the Works Combine Main Valley from 1938 to 1945.

(f) JAEHNE was a member of the German Labor Front from 1933 to 1945; and in 1938 he became a member of the NSDAP.

(g) JAEHNE was a member of the Greater Advisory Council of the Reich Group Industry; a member of the Agency for Plant Air Raid Protection of the Reich Group Industry, and of the Vorstand and Aufsichtsrat of a number of organizations and concerns.

(h) JAEHNE was appointed Military Economy Leader in 1943.

4. Certain Specific Activities of JAEHNE During the Period 1933 to 1945.

To place the specific activities outlined below in fuller context with the progression of events in Hitler's Germany and in Ferbon, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual brief with the year-by-year narrative under "B - CARL KRAUCH", above. Special reference is made to Part VI - C of this brief, the section on the defendant Lautenschlaeger. Since Lautenschlaeger was chief of the Works Combine Main Valley,

director of the Hoechst Plant, and from 1938 on Plant Leader at the Hoechst plant, and since JAEHNE was chief of the Technical Department at Hoechst and deputy chief of the Works Combine Main Valley, a considerable amount of specific evidence cited in this section of the brief is also noted in the section of the brief on Lautenschlaeger.

a. COUNT I - CRIMES AGAINST THE PEACE

(1) As early as January 1933, the Hoechst Vorstand (with JAEHNE present) discussed a visit to the War Ministry with respect to smoke screen materials (PE 136). At a meeting of the Hoechst Vorstand in February 1933, (with JAEHNE present) reference was made to tests for smoke producing agents (PE 137). In May 1933, JAEHNE made a report at a TEKO meeting on the progress of air raid precautionary measures; and the TEKO recommended a joint conference of the air raid chiefs of the individual plants to lay down guiding principles for all Farben plants (PE 171). In July 1933, a conference of Farben plant leaders from all Farben's works combines was held at Hoechst in connection with the problems of industrial air raid precautionary measures. The decision was made that Farben's Hoechst plant should be a clearing house for all air raid protection measures within Farben (PE 172; see Tr. 9912 - 9914). In July 1933, JAEHNE reported at a TEKO meeting on the first organized air raid protection measures taken in Farben plants (PE 173). In September, the TEKO (with JAEHNE present) set aside 190,000 Reichsmarks for air raid protection measures in Farben plants (PE 174). In the same month, the management at Hoechst (with JAEHNE present) decided that employees were to be reprimanded because of the contempt which they showed toward the Nazi salute (PE 85). In October 1933, at a meeting of the Hoechst Vorstand (with JAEHNE present) an invitation to a public series of lectures by a GAV indoctrination leader on Hitler's Mein Kampf was accepted (PE 86). Meetings of the Hoechst Vorstand in November 1933 (with JAEHNE present) approved an arrangement concerning the training of SA men (PE 87); discussed air raid protection measures (PE 176); and discussed the installation of

of air raid precautionary apparatus, the furnishing of gas masks, etc. (FE 177).

2. At a meeting of the Hoechst Vorstand in March 1934 (with JAEHNE present) an agreement was reached with para-military authorities concerning leave of absence and payment to participants in military sports camps (FE 88). In September 1934, a meeting of the TEKO (with JAEHNE present) discussed air raid precautionary measures, and decided that these measures would have to be taken up with the Central offices of the Reich in Berlin (FE 178). At a special meeting of Sparte 2 in the same month, JAEHNE reported on air raid protection measures thus far taken, stating that the measures placed a considerable burden on the plants (FE 179). For various other meetings of this and other Farben agencies dealing with air raid protection measures during the period 1934 to 1939, see FE 182. In November 1934, at a meeting of the TEKO at Hoechst (with JAEHNE present) the value of DINTA (German Institute for National Socialist Labor Training and Research) training courses was discussed, and it was pointed out that the value lay "less in the technical field than in the field of Ideology". Participation was recommended (FE 89).

3. As early as 1935, Farben on its own initiative, began conducting experiments in its Hoechst laboratories on the manufacture of hydrogen. The OGH was informed immediately, and in agreement with the OGH these experiments were conducted (FE 110). JAEHNE was present at the first oil conference held at Ludwigshafen in January 1935. The formation of Brabag, among other things, was discussed, its purpose being to produce fuel and lubricants by making use of soft coal and to set up such plants as were suitable for this purpose. A report on the establishment of Brabag and its relation to Farben was made by Buckofisch (FE 518). In September 1935, Ter Meer sent a letter to Farben's four main plant combines, announcing the creation of the V/W, and stating that Bruening would take over the tasks of the V/W for Sparte 2 in Berlin (FE 139).



(4) At a meeting of the Technical Board of Directors at Hoechst in March 1936, JAHNE stated that a building for the manufacture of solvents would go into operation by December; and also stated that planning exercises at Farben's Louna plant had shown the effectiveness of the defense system set up there (FB 183). A meeting of the Vorstand and the TMA held at Hoechst in May 1936 (with JAHNE present) discussed Farben's "special position" in the procurement of raw materials from abroad (FB 760). In June 1936, a meeting of the Hoechst Vorstand (with JAHNE present) discussed the "espionage decree" and a report was made concerning certain planned exercises which took place at Ludwigshafen, attended by military inspectors (FB 184). In June 1936, Goering sent a letter to Farben, addressed to the office of the TMA, concerning the expansion of synthetic rubber production at Schkopau, and requesting an increase in the capacity at Schkopau to 1,000 tons per month as soon as possible (FB 549). A meeting of the Technical Management at Hoechst, held in July 1936, reported that Ritter and Eckell had left the V/M to join Krouch's staff (FB 407). A meeting of the Technical Management at Hoechst in August 1936 (with JAHNE present) was informed of the new processes for the production of Silicium-tetrachloride (smoke screen tests) from which Farben had been excluded. It was stated that Farben would approach the Berlin authorities in order that Farben "in view of the high experimental costs which have until now accrued" be assured of a supply of Siliciumtetrachloride (FB 113). At a meeting of the Technical Management at Hoechst, held in October 1936, with JAHNE present, the problem of the requirements of synthetic gasoline and synthetic rubber, and the supplies of artificial fiber, were discussed as the most urgent tasks of Farben under the Four Year Plan (FB 529). In November 1936, the Technical Management at Hoechst decided that synthetic rubber would be treated as a sales product as of January 1937 (FB 551).

(5) In January 1937, at a meeting of the Technical Management at Hoechst (with JAHNE present) there was a discussion concerning amortizing Farben's projects under the Four Year Plan within ten years. (FB 430). In February, the TMA reported on the credits available

for projects of the Four Year Plan (FE 680). In the same month, a meeting of the Technical Directors at Hoechst (with JAHKE present) discussed a plan of Krueh's office for the construction of installations in connection with the production of various explosives (FE 606). In March 1937, a circular of the V/W directed to Farben's works combines (including JAHKE at Hoechst), with respect to the economic mobilization of Farben's plants, described the Farben plants as "vital war and economic factories", (FE 329). And in March, the V/W addressed a letter to all Farben's works combines (including JAHKE at Hoechst), to the DAG, and to several other Farben agencies, concerning the "industrial mobilization tasks of the I. G. plants". It was stated that the V/W engaged in working out mobilization schedules for the individual Farben plants. The general problem regarding mobilization schedules was to be handled by the Reich Ministry of Economics in cooperation with the V/W, while problems of purely local importance would be dealt with by the plants with the branch offices of the Reich Ministry of Economic Affairs (FE 195). In April 1937, Farben's Legal Department sent a letter to the TMA bureau concerning the attempt of Farben to acquire Tetrachlortiten in France. The letter stated that "in the modern offensive and defensive war technique, Tetrachlortiten has actually assumed an outstanding position". It was mentioned that Tetrachlortiten is used as a smoke-forming agent, and as a carrier which enables the poison gas to impregnate the various parts of a house, etc. It was stated that "the present political situation makes the problem of producing artificial clouds more important than ever" (FE 632). In May, at a meeting of the Technical Management at Hoechst (with JAHKE present) it was indicated that the Nitrogen Section of Farben showed a considerable increase in shipments, there being an increase from 30 cars a day in 1936, to 120 cars a day in 1937 (FE 595). The same month the V/W sent a letter to Farben's works combines, with a copy to JAHKE, with respect to secrecy regulations in connection with work being done for the Wehrmacht (FE 148). In September 1937, the V/W sent a letter to

various Farben leaders (including representatives at the Hoechst plant) concerning the "mobilization planning tasks" of Farben. Production plan proposals were requested, including current production plans, and "proposals for production plans in the event of mobilization". (FE 197). In November 1937, a meeting of the Technical Management at Hoechst discussed the demands of the Four Year Plan for technical experts from Farben (FE 140). In December 1937, a conference on Nitrogen was held at Buna, with JAEHNE present. The increase in nitrogen production in 1937 was discussed. It was stated that the increase was made up of 10,000 tons of nitrogen for nitric acid, and 7,000 tons for liquid ammonia (FE 127).

(6) From the beginning of 1938, mobilization questions were the regular order of business in the meetings of the TMA and also in the meetings of the Commercial Committee (FEs 248, 249, 250). JAEHNE has stated that in his capacity as Technical Manager of the Hoechst plant, he helped to organize the "Mob-Plans" (FE 246). The mobilization tasks included contracts for items such as nerve and poison gas decontamination substances. War delivery contracts for these substances were entered into in July, August, and September 1938, the preliminary products being delivered by the Hoechst plant among others (FE 254). At a meeting of the Technical Directors at Hoechst in August 1938, a report was made on the visit of a representative of Army Ordnance concerning the production of Acetophenon. Experiments were to be carried on on a large scale (FE 124; see Tr. 9919). On 15 September 1938, it was stated at a meeting of the Technical Management of Hoechst (with JAEHNE present) that on 26 September "military economy practice" was scheduled to take place. It was stated that "from experience gained at the latest black-out practice" the necessity for changes in the lighting system, etc., were considered necessary. Directives given at the TMA meeting for new equipment, etc., were discussed (FE 188). On 22 September 1938, the Central Committee of Farben placed 100,000 Reichsmarks at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps, which



letter organization was formed to create disturbances on the Czech border (FE 834). At a meeting of the Technical Management at Hoechst on 2 October 1938, (with JAHNE present) it was reported that two supply lines "particularly vulnerable to air attack" should be spread out over a large area (FE 189). In November 1938, at a meeting of the Technical Management at Hoechst, (with JAHNE present) it was stated that the appointment of foreigners must be avoided at all costs (FE 158).

(7) In February 1939, Farben's Griesheim plant sent a letter to Farben's Hoechst plant, announcing changes in mobilization tasks for certain products, on the basis of a discussion with the Army Ordnance. The products manufactured were war products, and the production schedule was for the event of mobilization (FE 237). On 15 March 1939, (the day of the invasion of Bohemia and Moravia) a conference of mobilization managers of Farben's plants was held, at which there was a discussion of mobilization problems relating to German industry in general, and to the mobilization of Farben plants in particular; air raid precautionary measures; transportation requirements; assurance of manpower in the event of war; security questions; preliminary work for turn-over from peacetime to war production; changes in shifts; employment of women in the case of mobilization, etc. The Farben plants were classified as "armament plants" and "plants essential to the war effort" (FE 239). In June 1939, the Military Economic Division sent a letter to Farben's Hoechst plant, containing new regulations of the Plenipotentiary for Economics and the OKW, with regard to preparations in case of war of plants important from the viewpoint of military economy. It was stated that, in the future, the plants designated thus far as "armament plants" and "plants that are essential to the war effort" would be uniformly designated as "military economy plants" abbreviated "W-Plants". Special measures were listed with respect to mobilization tasks (FE 242). In July, the V/W sent a letter to Farben's main plants, including Hoechst, concerning supplying the armament industry with fuel in war time. The letter which was dated

12 July 1939 concludes that due to the urgency of the matter, it should be answered not later than 30 July. (PE 233). In August 1939, the V/W sent a letter to Farben's Hoechst plant, submitting requirements for the current year for large machines and apparatus necessary for the execution of mobilization tasks (PE 244). In the same month, Farben's main plant at Hoechst sent a letter to Ambros, Burgin and others, concerning the production of "Perstoff" a poison gas. Reference was made to the production of Perstoff "with the aid of data available from the last war". The production of 800 tons per month was discussed. Reference was also made to the development of the Hoxogen process at Hoechst (PE 635). In August 1939, the Vorstand approved the contribution of 50,000 Reichsmarks for the mobilization of the National Socialist Air Corps (PE 1047). Reports dated February 1939 and August 1939, set forth the allocation of sulphuric acid and nitric acid to the DAG plants, and indicated the quantities which went from the Hoechst plant to the various DAG factories (PEs 2060, 2061). At a meeting of Sparte 2 on 14 September 1939 (with JAHNE present), called to discuss the outbreak of war, it was stated that "the prepared mobilization program which embraces all manufacturing by I.G. became effective on 3 September 1939" (PE 265).

(8) As Chairman of the TEK0 during the whole period of twelve years, JAHNE advised as to whether the construction of "general plants" was warranted; and advised with respect to "general considerations" in the case of the construction of individual production plants (See Tr 10008 to 10010). JAHNE has described his duties as Chairman of the TEK0 in the following way: "As director of the Engineering Committee (TEK0) I submitted all my reports at Vorstand meetings or at Technical Committee meetings. At the Vorstand I looked after technical engineering interests in general. In addition, my report covered the Griesheim-Autogen Plant. I looked after collective planning, chiefly concerning power supplies. Then I was also in charge of the economic products which resulted from the generation of power and gas; further, technical patents, that is, if an Engineer had

discovered a new invention. In this position I was responsible for the power supplies of the entire I. G. and also supervised the power problems of all I. G. plants" (PE 246).

(9) JAHME admits his role in the mobilization program (PE 246), but spoke of the mobilization program as being "precautionary" and claims that the measures taken were similar to those taken by industry in all countries of the World (Tr. 9915). At the same time, speaking of the "power politics" of the Third Reich, JAHME, while voicing his disapproval, makes it clear that he understood well the meaning of such policies, while participating in the furtherance of them. Thus, JAHME states that: "I wished that through the objections of other States that this policy would be stopped and that the whole thing might have then collapsed. The nonsense of the living space idea I also rejected, because if all people acted according to that policy we would continuously have war" (Tr. 9910 and 9911). Despite this admission, JAHME claims that he approved of rearmament because it gave Germany "the possibility of defending itself against attacks from other people" (Tr. 9910).

#### The War Years

(10) The defendant JAHME was, in practice, Farben's chief engineer as the chairman of the Engineering Committee. The TEKO checked proposed credits for engineering equipment in all of the large construction projects of Farben both before the war and during the war years. By virtue of his activities in the TEKO and as a member of Farben's Vorstand, JAHME participated substantially in waging successive wars of aggression. His participation in the acts and conduct charged under Counts II and III are discussed immediately below.

#### b. COUNT II - PLUNDER AND SPOILATION

(11) As a Vorstand member and a member of the Technical Committee, JAHME participated in the planning of, and approved and ratified, all of Farben's spoliative conduct in the occupied countries.



(12) In the Polish case, JAEHNE does not deny that his Offenbach plant required equipment from the Polish Wola plant (owner: Dr. Szpilfajel), (Tr. 9923). What he calls a "used boiler" was, in fact, Wola's betaxynaphthol apparatus (PE 1627). His only defense is that he was not asked about the purchase of this boiler since the transaction involved a subject worth "about three hundred Marks", and belonged to the jurisdiction of the plant manager (Tr. 9923). The manager himself, Alfred Harenboecker, in his affidavit (JAEHNE Exh 19) does

"not remember ever to have informed Herr Professor Lautenschlaeger or Herr Director JAEHNE of this purchase".

He feels there were no reasons for doing so since he was independent works manager, and

"this was a minor object, not a matter of greater importance" (JAEHNE Exh 19).

As a matter of fact, JAEHNE'S figure of RM 300 is erroneous since defense witness Schwab told the court that the price paid by Offenbach amounted to RM 22,000 (Tr. 6096). It also appears from JAEHNE'S own testimony that this apparatus

"might have been one eighth of the amount of the entire plant" (Tr. 9924).

It, therefore, is incredible that, if engineering equipment of such value and utility was involved, the defendant JAEHNE as leader of the plant was uninformed.

(13) As far as Soviet Russia is concerned, JAEHNE attended the 26th meeting of the Vorstand on 10 July 1941, where the Eastern monopoly corporations were discussed (PE 1177). He also received, as a member of the Vorstand, de Haas's Situation Report Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" would not be excluded from participation in the "reconstruction" in the East (PE 1175).

(14) JAEHNE was a member of the TEA (Technical Committee) from 1933 to 1945 (PE 298), and attended the TEA meeting of 17 December 1940 where ter Meer, speaking of Francolor, reported that

"an agreement was reached with the French dyestuff group whereby we are assured of decisive influence on French dyestuff production" (PE 345).

He was, again, present at the Vorstand meeting of 10 July 1941 where von Schnitzler

"gave a report on the negotiations which had been successfully concluded with respect to Francolor" (PE 1177).

He also attended the Vorstand meeting of 12 December 1940 where Mann reported on the license agreement with Rhone-Poulenc which was contemplated (and later on concluded) for a 50 years' period, and where Mann also stated:

"In addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital" (PE 1270).

The Vorstand members present, among them defendant JAEHNE, "agreed to this line of action" (PE 1270).

(15) In the case of Norway, JAEHNE attended the Vorstand meeting of 5 February 1941 where, in

"a detailed discussion ... it was emphasized that I. G. has considerable interest in gaining a firm footing in Norway" (PE 1193).

As far as the spoliation plans in Russia and spoliation in the Francolor and Rhone-Poulenc cases and in Norway are concerned, a number of arguments have been advanced by other defendants which, to the extent that they are relevant, will be discussed in the individual briefs concerning those other defendants. JAEHNE, when taking the stand, dealt mainly with the cases of the Polish Wola plant and the oxygen plants in Alsace-Lorraine.

(16) JAEHNE played a most active part, together with defendant Warster, in Farben's spoliating the oxygen/acetylene plants in Alsace-Lorraine and Luxembourg. It is undisputed that, within the Farben Board, defendant JAEHNE handled the relations between I. G. Farben and Linde's Eismaschinen, and that he was the leading authority within Farben dealing with Farben's interest in the oxygen field.

The evidence has established that both JAEHNE and Wurster were instrumental in securing the French plants for Farben. Long before Farben Lawyer Meyer-Wexelin advised Farben's Central Office for Contracts that the United Oxygen Works (which was jointly owned by Farben and Lindo's Bismaschinen - JAEHNE'S testimony Tr. 10002), was trying to acquire

"the oxygen and acetylene plants formerly in French and Jewish hands"

located in Alsace-Lorraine and Luxembourg (PE 1223), defendants JAEHNE and Wurster had already contacted the Nazi authorities in charge. A few weeks after the occupation of Alsace-Lorraine, Farben felt that

"the negotiations concerning the Alsatian plants made no progress" (PE 2062, page 2).

It was defendant JAEHNE who, therefore, had

"requested a conference with the government of Baden in Karlsruhe . . . . It was finally possible to bring about an agreement according to our wishes" (PE 2062, page 2).

This early document also shows that Farben was not only interested in leasing the Lorraine plants but also in acquiring ownership. Farben had already achieved the "most gratifying result" that Farben's production manager at the oxygen plant Saarbruecken had been appointed trustee of the oxygen plants in Marlenbach and Diedenhofen (PE 2062, page 3). It also appears from said document that Farben

"has established contact with different agencies, in order to make it possible to continue negotiations with the authorities in control (Gauleiter Buerckel; Prof. Dr. Luer from the Office of the Head of the Civil Administration Metz) for the leasing and taking over of the plants in Marlenbach and Diedenhofen" (PE 2062, pa. 3).

The contact with Gauleiter Buerckel to which this memorandum refers, had already been established by defendant Wurster (PE 2119, first paragraph; see also brief on Wurster, Part VI, infra). After they had thus laid the foundation, defendants JAEHNE and Wurster could now leave further negotiations to Farben's affiliate, United Oxygen Works. JAEHNE was advised of the progress by the letter of said corporation of 16 November 1940. According to the report, the Nazi government was not willing to enter into a lease agreement as presented



by Farben since such lease would

"establish beforehand the conditions of ownership"  
(PE 2063, page 2).

He was also advised by the same document that United Oxygen Works, thereupon, was

"emphasizing the historical right of our group to take over the plants" (PE 2063, page 2).

The steps taken by defendants JAEHNE and Wurster were successful in that Farben could finally lease the Diedenhofen plant in Lorraine which was owned by the Oxyhydrique Francaise, and also acquired title to the oxygen and acetylene plant in Strassbourg/Schiltigheim which was owned by the Air Liquide, Paris (see Preliminary Memorandum Brief, Part II, pages 21/22; and the documents referred to therein).

(17) In the case of Alsace-Lorraine, JAEHNE has interposed the following defenses:

(a) He did not personally participate in the lease negotiations (Tr. 9924). In fact, JAEHNE'S personal participation has been established beyond any reasonable doubt (PEs 2062, 2063). What he said in re-direct (Tr. 10019/20) is not convincing; and clearly rebutted by the two documents mentioned.

(b) The officials in charge of the administration of the occupied territory pressed for a quick restoration of the oxygen plants which had been evacuated by the French (Tr. 9925 10019; JAEHNE-Exh 21). As a matter of fact, we have shown by overwhelming evidence that the initiative was completely Farben's, and that no pressure on the side of the government was used against them (PEs 1223, 1231, 1232, 1233, 1234, 2062, 2063). Farben's goal was set even farther than just acquiring the oxygen plants in Alsace-Lorraine and Luxembourg. The meeting of 23 August 1940 which was attended by JAEHNE, referred not only to Alsace-Lorraine and Luxembourg; Farben also discussed how it could best acquire the oxygen plants in Belgium and Holland and in the Polish Government General (PE 2062, p. 4, Nos. 2 and 3). JAEHNE, together with the other representatives of Farben, Linde's Maschinen and the United Oxygen Works, decided that United Oxygen Works should

by Farben since such lease would

"establish beforehand the conditions of owner-ship"  
(PE 2063, page 2).

He was also advised by the same document that United Oxygen Works,  
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General (PE 2062, p. 4, Nos. 2 and 3). JAEHNE, together with the  
other representatives of Farben, Lindo's Bismaschinen and the  
United Oxygen Works, decided that United Oxygen Works should

address a letter to the Reich Ministry of Economics offering technical and commercial help, and

"intimating, in a cautious form, our preparedness to take an interest in the plants should the RMM so desire" (FE 2062, page 4).

The draft of the letter which was contemplated in said meeting is enclosed with FE 2062. Again, it leaves no doubt as to the initiative taken by I. G. Farben and this defendant, in order to acquire oxygen plants in the whole of conquered Europe. Whether or not the plants in Alsace-Lorraine had been evacuated by the French before they left is irrelevant. Farben tried to, and in some cases did, acquire the plants including real property (FE 1235), and thereby committed the crime of spoliation. As a matter of fact, however, the Diedenhofen plant was not evacuated when Farben took over, but just

"closed down since the electricity plant is destroyed, and the supply of current has been cut off" (FE 2062, page 2).

(c) The entire production of the plants remained in Alsace-Lorraine (i.e., after Farben stepped in) (Tr. 9926, JAHNKE Exh 21, page 3). The relevancy of this argument does not appear. Farben acquired the plants from a Nazi official, not their owner, and it is this act which clearly violates Art. 46, 53, 55 of the Hague Convention. Besides, the facts show a different picture. As to the use to be made of the oxygen production, Farben itself emphasized in its conference with the Nazi authorities that it (Farben) should take over the plants because of the big requirements to be expected from the Todt organization, as well as for the current supplying of industry and trade, and also of the Wehrmacht (FE 2119, page 2).

(d) Farben took over the plants "in a sad state"; they had become more valuable through Farben's efforts when Farben left (Tr. 9926). This defense which is familiar to us from other cases of Farben spoliation, has no bearing on the issue before us. If somebody steals another man's watch, it does not mitigate, let alone eliminate - his crime that, thereafter, he had the



watch repaired.

(c) One of the plants at Strassbourg/Schiltigheim to which Farben acquired title, including real estate, was transferred by Farben to Linde's Bismaschinen (JAHNE Exh 20). It makes, of course, no difference how the two partners in the crime of spoliation - I. G. Farben and Farben's Linde's Bismaschinen - divided the spoils as between themselves.

c. COUNT III - SLAVERY AND MASS MURDER

(18) By his acts and functions and according to his responsibilities as a Vorstand member during the war, JAHNE is responsible for the conduct of Farben in connection with slave labor and mass murder, as charged in Count III. Since JAHNE was deputy chief of the Plant Combine Main Valley, of which Lautenschlaeger was chief, the cases of Lautenschlaeger and JAHNE should be considered together.

(19) JAHNE on examination stated:

"We (Lautenschlaeger and myself) collaborated in a very friendly way; we were jointly in charge of the plant and of the plant combine. He (Lautenschlaeger) was the Chief, and I was his Deputy. On the other hand, I myself was a member of the Vorstand and had my special tasks in the technical field . . . We never had any differences of opinion about the management" (Tr. 9966).

Lautenschlaeger stated that he and JAHNE welcomed the employment of foreign labor when German labor was not available in sufficient numbers (PE 1358 - See this exhibit also in connection with knowledge as to the compulsion of foreign workers, both Eastern and Western). On examination defendant JAHNE said that he would not have formulated the statement the way Lautenschlaeger did, but rather that the employment of foreigners eased their situation and they welcomed that. He also stated that as the man who mainly had to do with the plant, he did not welcome this because he knew that this would give them a lot of work and trouble (Tr. 9934). It is significant in connection with the position taken by Lautenschlaeger and JAHNE before the actual employment of foreign labor that Lautenschlaeger stated that they (JAHNE and himself) took an absolute positive stand to the proposition (PE 1358).

JAEHNE testified that the entire staff of Hoechst amounted to about 12,000 and that the maximum number of foreign workers amounted to about 3,000 (Tr. 9935).

(20) The breadth of JAEHNE'S activities in technical and engineering fields is indicated by his statement on examination:

"You must consider that, as a member of the TEA, as Chairman of the TEKIO and as a representative in Farben Main Gau, I had many important tasks in other technical organizations" (Tr. 9893).

JAEHNE was in charge of so-called technological or "engineering" credits (Tr. 9895). As Deputy Plant Leader of Hoechst JAEHNE represented Lautenschlaeger during his absence and decided and settled upon urgent matters himself (Tr. 9898). JAEHNE stated that he remained in his job even though he was not in sympathy with Nazi principle so, among other things, he would be in a position to help many people (Tr. 9904). JAEHNE admitted on examination that he had the over-all direction of Griesheim-Autoren, although it was always under a machine engineer. For this plant JAEHNE was responsible to the Farben Vorstand (Tr. 9931). It was at Autoren that French P.W.'s were employed in the armament industry (PEs 1369 and 1358).

(21) The TEKIO, under JAEHNE'S chairmanship, on 14 December 1943, approved the continuation of the "training school program" in Brussels, although so far it had not been possible to place the laborers in Germany because they escaped in advance (PE 1319).

(22) Aside from his general responsibility and the knowledge which came with that responsibility in technically approving the housing projects for foreign workers, JAEHNE participated in personnel matters at Hoechst and the Main Valley Combine, Lautenschlaeger stated:

"I . . . kept Mr. JAEHNE completely informed on all matters concerning the works, and he also participated in all the meetings of the management . . . In these meetings general problems were being discussed above all, also questions in regard to the personnel and employees . . . Although the personnel department was not directly subordinated to Mr. JAEHNE, yet he had a voice in the matters of these departments . . . Mr. JAEHNE was in charge of the security department and the works security detachment (Werkschutz).

"Mr. JAEHNE also looked after the foreign workers and the penal detail of Frenchmen who worked in Hoechst . . . he was charged with building the huts and enforcing the necessary sanitary measures" (PE 1359).

(23) On cross examination defendant JAEHNE manifested a definite tendency toward evasion. He could not remember, for example, the year in which the TEKO first technically approved credits for the housing of foreign workers. When the PE 1558 was put to him to show that a large number of foreigners were already employed by Farben in January 1941, he stated that this had nothing to do with the Technical Commission. When reminded that it was the TEKO's function to technically approve credits for the housing of the foreigners who worked there, he still could not remember about when the TEKO first approved such credits. He did admit that credit requests emanating from Schneider's so-called Bortrons Office as a rule came to the TEKO (Tr. 9985).

(24) In reference to the "training school" in Brussels operated by Farben and discussed in the TEKO (PE 1315), JAEHNE testified on direct examination that he had a negative attitude to these workers' schools, and by his testimony tended to shift the responsibility to Sparte III which was the field of Mr. Riess (also Gajowski) (Tr. 9929 and 9931). JAEHNE testified on cross examination that the workers who came from such training schools were volunteers. He was referred to his own exhibit 2, which is an affidavit by the Farben engineer Otto Einseler to which is attached a report on the founding and development of trade schools in foreign countries. It is noted in the report that the costs of the welding school in Antwerp were paid by Filmfabrik Wolfen and that the firm Swannet and Francois was the administrator. The judgment and decision of the Belgian Military Court of Antwerp against Swannet and Francois shows that Swannet and Francois were charged with, found guilty and sentenced to twenty and fifteen years at hard labor respectively and the sum of 450,921.49 Belgian francs declared escheated to the treasury for the crime of supplying the enemy with skilled workers. It was also



found by the Court that the work in question was not voluntary in the full meaning of the term (PE 2052, Tr. 9988, 9989).

(25) Defendant JAEHNE when asked on cross-examination whether or not it was the policy in the Main Valley Works Combine to inform the SS when foreigners did not return from leave, first answered "no", but then stated:

"... There was an order -- and I know this from Hoechst -- to denounce foreign workers to the Gestapo who did not return, but this has not the slightest to do with the policy of Farben" (PE 2053, 2054, 2055, and Tr. 9989, 9991).

(26) In connection with the forcible employment of Poles and Russians, JAEHNE testified that he talked to such people and that very late during the war he heard claims from them that they did not come voluntarily. He was not able to give even the approximate date when he learned this from the workers themselves (Tr. 9991). Defendant JAEHNE stated on cross examination that there were no discussions in the Vorstand concerning the forcible employment of foreigners. He said this was a technical question which the TEA could have been informed about (Tr. 9994).

(27) JAEHNE was asked on cross examination to testify as to how many people he had been able to help. (He had testified on direct examination that as a result of his decision to join the Party he was able to help many people (Tr. 9904).) His answer was that he did not write them down, but that there were many. When asked whether by "many" he meant 75, 100, or 150, he said that as a technologist he could not give approximate answers (Tr. 9995, 9996).

(28) JAEHNE first testified that the TEKO did not discuss the labor situation at Auschwitz. When shown PEs 2056, 2057, and 2058, he stated that of course the camps in Auschwitz were discussed (Tr. 9997). JAEHNE testified that he heard about the construction at Buna Auschwitz in the middle of 1940. He heard about concentration camp inmates in reference to Buna Auschwitz in the TEA in April of 1941 when Ambros mentioned that one could expect, perhaps, a certain amount of assistance

from the workshops of the concentration camp nearby (Tr. 9960, 9961). JAEHNE testified that he heard nothing in Auschwitz itself about the gassings going on there. He said that he heard a rumor, possibly in the sleeping car in which he travelled to Auschwitz, about these matters. He stated that he believed a member of the police with whom he shared his compartment told him about 80,000 inmates housed there and the gassings of these people. He further said that he talked with his son, who worked at Auschwitz about two years, about the gassings and as far as he could remember his son told him that wild rumors were about in that vicinity, but that nobody knew anything definite (Tr. 9964). JAEHNE said that he spent some time with his son when he was in Auschwitz and indicated that he and his son were naturally close to each other (Tr. 9980). In spite of JAEHNE'S admission that he talked with his son about the gassings at Auschwitz, he stated that his son did not talk with him about the treatment of KZ inmates in I. G. Auschwitz -- the beatings by the Kapos, the defective clothing worn by the inmates, the heavy work performed by the inmates and the fact that they were driven at such work, etc. That all of these things existed was stated by Morbert Jaehne, defendant JAEHNE'S son, in an affidavit he gave to the prosecution (PE 2059, Tr. 9998, 10003). Reference is also made to Part IV of this final brief.

(29) The Belgian worker de Bruyn in his affidavit stated that conditions in the workers' camp at Hoechst were inhuman. He also stated that adverse conditions existed in respect to medical care, etc. (PE 1367). De Bruyn was not requested by the defense for cross examination. In refutation of the testimony that de Bruyn gave, the three following defense affidavits were offered: Josef Ems, JAEHNE Exhibit 55; Josef Mueller, JAEHNE Exhibit 56; Adolf Baldus, JAEHNE Exhibit 57. These affidavits, particularly JAEHNE Exhibits 55 and 57, make references to Hoechst records, but any such records, which would be the best evidence, were not presented. Hoechst is located just outside of Frankfurt, the present center of "Farben" records.

d. COUNT V - CONSPIRACY

(30) The comments made in the individual brief on the defendant FRAUCH. Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant JAEHNE.

5. Proposed Findings of Fact with Respect to the Guilt of Friedrich JAEHNE.

The evidence has established beyond a reasonable doubt the guilt of the defendant Friedrich JAEHNE on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant JAEHNE under each of these Counts is predicated upon the following facts, which have been established by the proof:

COUNT I

1. The following activities of JAEHNE, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) JAEHNE'S activities as one of the leading officials of Farbion including his activities as a member of the Vorstand from 1934 to 1945; as a member of the Technical Committee (TEA) from 1933 to 1945; as Chief of the Technical Department of the Hoechst plant from 1933 to 1945; and as Deputy Chief of the Works Combine Main Valley from 1938 to 1945.

(b) JAEHNE'S activities in other positions, including his activities as a member of the Greater Advisory Council of the Reich Group Industry.

(c) JAEHNE'S activities carried on through the instrumentality of Farbion and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting



the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. JAEHNE participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. JAEHNE knew this for a number of reasons:

(a) JAEHNE knew that this had been the program of the Nazi party since the early 1920's, and beginning in 1933 it was clear to JAEHNE that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in JAEHNE'S position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by JAEHNE and the timing of such activities, establish that JAEHNE knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by JAEHNE, at which the aims of the Nazi leaders were expressed, and JAEHNE'S own statements on various occasions, are sufficient in and of themselves to establish that JAEHNE had the required state of mind.

(e) JAEHNE'S state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to JAEHNE; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, JAEHNE knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant JAEHNE.

(a) As a matter of Law, even if the facts established that JAEHNE acted under duress or coercion, this would be no defense.

(b) The facts do not establish that JAEHNE acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT II

1. The defendant JAEHNE knowingly participated in plans to spoliato, and in spoliating, the chemical industries of occupied countries.

2. JAEHNE bears a major responsibility for, and know of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. JAEHNE played an especially active role in the plunder and spoliation of property in Alsace-Lorraine and Luxembourg.

3. The alleged defense of duress or coercion is not available to the defendant JAEHNE.

(a) As a matter of Law, even if the facts established that JAEHNE acted under duress or coercion, this would be no defense.

(b) The facts do not establish that JAEHNE acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT III (Sections A and C)

1. JAEHNE knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. JAEHNE took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of JAEHNE were, to JAEHNE'S knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. JAEHNE continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant JAEHNE.

(a) As a matter of Law, even if the facts established that JAEHNE acted under duress or coercion, this would be no defense.

(b) The facts do not establish that JAEHNE acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section B - Mass Exterminations)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. JAEHNE participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. JAEHNE knew that human beings in concentration camps were being exterminated by gassing.

4. JAEHNE either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which



required him to investigate.

COUNT V

1. The foregoing activities were engaged in by the defendant JAEHNE in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

2. The defendant JAEHNE, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.

1. Charges in the Indictment. The defendant KUEHNE is indicted under Count I (crimes against peace), Count II (plunder and spoliation constituting war crimes), Count III (slave labor--constituting war crimes and crimes against humanity), and Count V (conspiracy to commit crimes against peace). The defendant took the stand in his own behalf (Tr. 10078, et seq.).

2. General Nature of the Evidence Supporting These Charges.

(a) KUEHNE bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, and economical life of Germany, KUEHNE bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

(b) These charges against the defendant KUEHNE are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including a Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant KUEHNE sets forth certain highlights in the activities of the defendant KUEHNE and shows the general nature of the field of activity in which he was engaged during the period 1933

to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. KUEHNE'S Positions from 1933 to 1945. The positions which KUEHNE held in the financial, industrial, and economic life of Germany from 1933 to 1945 are set forth in some detail in PEs 302, 303, 1618, and 1619 (see also testimony of KUEHNE on direct examination, Tr. 10079 and following). The following positions held by KUEHNE during these years are of special significance:

(a) KUEHNE was a member of the Vorstand from 1926 to 1945, being a member of the Working Committee from 1933 to 1938 and of its successor, the regular Vorstand, from 1938 on. (Although KUEHNE states that he retired in August 1943, as Plant Leader of Leverkusen, his official retirement was fixed as of 30 June 1945, and there is no evidence that he resigned from the Vorstand prior to the collapse of Germany. See Tr. 10082 and 10083).

(b) KUEHNE was a full member of the TEA from 1926 to 1945.

(c) KUEHNE was Chief of the Works Combine Lower Rhine from 1933 to 1945 and Plant Leader of the Leverkusen Plant from 1933 until at least 1 August 1945. (See Tr. 10082).

(d) KUEHNE was Chairman of the Southeast Europe Committee; deputy chairman of the Verwaltungsrat of Dynamit Nobel, Pressbourg (Bratislava); a member of the Aufsichtsrat of Aussig-Falkenau (Czechoslovakia); general director and chairman of the Vorstand of Donau-Chemie (Austria); member of the Aufsichtsrat of the Chemische Werke Huels; and member of the Aufsichtsrat, Vorstand and Verwaltungsrat of a number of other concerns, including concerns in Italy and Yugoslavia, as well as in Germany.

(e) KUEHNE became a member of the NSDAP in May, 1933, and was expelled in September 1933, because he had been a lodge member. In 1937, he was advised by Hitler that he might again be a Party member. KUEHNE was a member of the German Labor Front from 1934 on.

4. Certain Specific Activities of KUEHNE During the Period 1933 to 1945. The Tribunal is requested to frequently "cross-reference" its study of this individual brief on KUEHNE, particularly with the year-by-year narrative under



Part VI, "B - CARL KRAUCH", pp 6 through 27, and under Part VI, "H - TER MEER", pp 188 through 232, supra. The discussion concerning TER MEER should be particularly helpful since KUEHNE was a Works Combine chief under Sparte II, of which Sparte TER MEER was the chief.

#### C. COUNT I - CRIMES AGAINST THE PEACE

(1) As chief of Farben's Works Combine Lower Rhine and plant leader of Leverkusen, KUEHNE had a broad field of special responsibility to the Vorstand. As a member of the Vorstand of Farben during the entire period 1933 to 1945, he was informed of and authorized, approved, or ratified all major activities of Farben during this period. The Lower Rhine Combine, of which KUEHNE was chief, consisted of the gigantic Leverkusen plants, the Uerdingen, Wuppertal-Elberfeld, Parchwitz, Dormagen, Duisberg, and Knapsack plants (PE 47).

#### THE YEARS 1933 AND 1934

(2) In April 1933, shortly after the Nazi seizure of power, an announcement was issued by the management of Farben's Leverkusen plant and signed by KUEHNE, which requested the personnel to join the May Day Rally of the Nazi Party and to prove their willingness to cooperate (PE 82).<sup>\*</sup> On 21 April 1933, a meeting of the Farben plant leaders was held at Leverkusen under the chairmanship of KUEHNE. After KUEHNE had expressed his joy over the coming into power of the new Nazi government, reports were made on a number of matters including air-raid precautionary measures, protection against gas attacks, etc. It was pointed out that gas masks had been issued to a large number of employees and

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<sup>\*</sup> In May 1933, Leverkusen took up the question of having "suitable representation of the National Socialists aims within the N.S. Factory Cell Organization" of the Leverkusen plant (PE 83). For attempted explanation of PEs 82 and 83, see testimony of KUEHNE, Tr. 10108-10109.

and that they were being trained against possible gas attacks. Detailed steps were outlined which were to be taken at the key words "air raid alarm" (PE 170). On 25 April 1933, Krupp von Bohlen sent a letter to Hitler concerning the reorganization of the Reich Association of Industry in line with the aims of the Nazi government (PE 67). In May 1933, a meeting of the TEKO at which KUEHNE was present discussed the program of air raid protection measures (PE 171). A conference of plant leaders from all Works Combines was held in June 1933 to discuss the details of air raid protection measures (PE 122). Thereafter, a number of meetings were held in connection with the intensified program of protection from air raids (PEs 173, 174). These measures against possible air raid attacks and gas attacks, which measures were increased in 1934 and the following years (PEs 178 and 182), formed one part of the Nazi preparation for aggression. It is no more appropriate to describe these measures as "defensive" than it is to describe the war between the Western Allies and Germany as being "defensive" on the part of Germany. It has been suggested in some quarters that the fact that France and England declared war on Germany in an effort to put a stop to further German aggression meant that the war which ensued was a "defensive" war so far as Germany was concerned. These same quarters will contend that measures taken in Germany, such as air raid protection measures, were likewise "defensive", despite the fact that it is obvious from the total picture that these measures were taken because responsible Germans knew that eventually someone would try to stop Germany before she conquered all Europe. This is a typical example in our judgment of the fact that one segment of the evidence in this case can only be fully evaluated when weighed together with all the other evidence. Obviously air raid protection measures in and of themselves can be for defensive as well as aggressive

purposes, but when these measures, taken on an intensified scale by Germany after the seizure of power by the Nazis and their announcement of their aggressive aims, are viewed together with the other measures taken during this period, their meaning becomes patently clear.

(3) Beginning in 1933, the Central Committee, with the knowledge of the Vorstand Working Committee, made substantial contributions to the Nazi Party and Nazi Party organizations, including contributions to the Adolf Hitler Fund (PEs 78, 79, and 80). Between 1933 and 1945 Forben made contributions totaling 40,000,000 Reichmarks to the Nazi Party and Nazi Party organizations (PE 80). KUEHNE was a member of the Vorstand during this whole period. The defendants not only supported the Nazi Party financially during this period but also "ideologically". In November 1934 at a meeting of the Technical Commission held at Frankfurt (a copy of the minutes of which were sent to KUEHNE), the value of the training courses of DINTA (German Institute for National Socialistic Training and Research) was discussed. It was pointed out at this meeting that the value of these courses "lies less in the technical field than in the field of ideology", and the committee recommended participation (PE 89).

#### THE YEARS 1935 AND 1936

(4) Beginning in January 1935, a series of conferences were held with Army Ordnance relating to the manufacture of synthetic rubber. The first conference was held in Leverkusen in January 1935. At this conference it was stated that Army Ordnance desired the speeding up of work on tires so as to get an opinion on the utility of synthetic rubber and thus be able to decide whether natural rubber had to be stockpiled. It was also stated that the production of synthetic rubber was no longer a question of foreign exchange but had become



a question of military policy in which "the requirements of the Wehrmacht will, however, be decisive" (PE 546). Conferences which followed thereafter in 1935 are summarized in the individual brief on the defendant TER MEER, Part VI - H, supra. It will be noted that a further conference was held with Army Ordnance at Leverkusen in October 1935, at which the erection of a buna plant with a monthly capacity of 200 tons per month was decided upon. At this conference it was also pointed out that the Army's peacetime demand for rubber was only about 50 tons per month (PE 546). KUEHNE was present at the first oil conference held at Ludwigshafen on 10 January 1935, at which the formation of Brabag, among other things, was discussed. BUETEFISCH made a report on the establishment of Brabag and its relation to Farben, the purpose of Brabag being to produce fuel and lubricants from soft coal, and to set up such plants as might be suitable for this purpose (PE 518). Beginning in 1935, representatives of the OKH frequently inspected Leverkusen for the purpose of obtaining information concerning projects being developed at Leverkusen (PE 660). The stockpiling of iron pyrites in plants of the Lower Rhine Combine as well as in other Farben plants, which began as early as 1934, was intensified by Farben in 1935 (PE 749; see testimony of KUEHNE, Tr. 10147). In 1935 Farben began stockpiling magnesium in bomb tubes marked "textile shells". The TEA, which had handled the construction of the new magnesium plants at the request of the Luftwaffe beginning in 1933, also approved of the stockpiling of the magnesium. In 1935, the stabilizer plant at Uerdingen was enlarged (PE 744). In September 1935, KUEHNE and the heads of the other Works Combines were advised by the defendant TER MEER of the creation of the V/W and of its purposes (PE 139). In 1936, Farben on its own initiative, began conducting experiments for the production of hexogene (PE 110).

(5) In January 1936, KRAUCH sent an announcement to all Farben plants concerning the establishment of Section "A" within the V/W (sent to KUEHNE among others). The announcement noted that counter-intelligence agents had been appointed in Farben plants and that Section "A" was at the disposal of all Farben agencies on counter-intelligence and security matters (PE 145). In February 1936, KUEHNE signed the obligation of secrecy required by the Wehrmacht in connection with work being done for the Wehrmacht (PE 146, Tr. 10136). In February, KUEHNE made a confidential announcement concerning the limitation on the employment of foreigners (including stateless persons) in war-essential plants; visits by foreigners and safeguarding of secrecy in the giving out of material to economic organizations, etc. (PE 150). In the same month KUEHNE sent a letter to the officials of the Leverkusen plant concerning security regulations (PE 155). It was in June 1936 that Goering requested that Farben increase its synthetic rubber capacity at Schkopau to 1,000 tons as soon as possible (PE 549). The year 1936 was a crucial one in many fields of production. In this connection reference is made to Part II of this brief and specific comments appearing in Part VI with respect to the defendants KRAUCH, TER MEER, and BUETEFISCH. No effort will be made here to repeat most of the evidence which is summarized in these parts of the brief. In November 1936, V/W sent a letter to KUEHNE requesting that the war games at Leverkusen be postponed in order that Colonel Thomas, Chief of the Military Economic Staff of the Reich War Ministry could attend (PE 185). A memorandum from Farben Sales Combine Chemicals of 2 November 1936 addressed to KUEHNE at Leverkusen, contained excerpts from the minutes of a conference with TER MEER concerning the request of Keppler's staff for an expert from Farben. This memorandum concluded "the important thing for us is not to have a man

selected who would work against I. G. for personal reasons" (PE 408). On 17 December 1936, Goering made his famous speech before the most important German industrialists outlining the purposes of the Four Year Plan in which he stated in part, "We are already on the threshold of mobilization and we are already at war; all that is lacking is the actual shooting." (PE 421; see testimony of KRAUCH that this meeting was not a secret meeting; Tr. 5138). On 22 December 1936, KUEHNE made a report concerning "war economy tactical planning exercises" to take place at Leverkusen in January 1937. These planning exercises were on the assumption that war had begun. They were based on the supposition that plants had been bombed, poison gas had been dropped, etc. Throughout the preparation of the exercises reference is made to the "A Factor" (PE 103; Tr. 10135).

#### THE YEARS 1937 AND 1938

(6) In January 1937, the V/W sent a letter to the management at Leverkusen requesting a copy of the minutes of a conference of tactical exercises held at Leverkusen. The letter requested a designation of the departments of Farben's Leverkusen plant according to (1) plants which will be on a full production basis in the "A Fall"; (2) plants which will only operate on a limited scale; and (3) "plants which it can be seen even now that they will not run during the war" (PE 186; Tr. 10136). In January 1937, KUEHNE sent a letter to TER MEER in which he quotes Colonel Phillips as stating that the Wehrmacht had not demanded a second synthetic rubber plant and that "the official on the Raw Materials Staff who so irresponsibly pushes matters concerning rubber plants is Dr. Krauch" (PE 552). In February 1937, the manufacture of decontaminating oil was discussed by the Chemical Sales Combine of Farben, the preliminary products to be produced by Leverkusen (PE 596).



In February 1937, the TEA Bureau reported on the credits available for the Four Year Plan (PE 680). In March 1937, the V/W sent a letter to Farben's Leverkusen plant proposing a meeting at Leverkusen of Farben leaders with representatives of various Reich agencies to discuss mobilization problems. Among the topics to be discussed were "The importance of Leverkusen as an armament plant and a Stage I production plant for other armament factories." (PE 194). In the same month the V/W addressed a letter to all Farben Working Combines, to DAG, and several other Farben agencies concerning the industrial mobilization technique of I. G. plants. It was stated that the V/W was engaged in working out mobilization schedules for individual Farben plants. General problems regarding mobilization schedules were to be handled by the Reich Ministry of Economics in cooperation with the V/W while problems of purely local importance would be dealt with by the plants in collaboration with the branch offices of the Reich Ministry of Economics (PE 195). In April 1937, Farben's Elberfeld plant sent a letter to Farben's Hoechst plant concerning mobilization plans. It was stated in the letter that "after consultation with Prof. HOERLEIN we shall have to postpone the scheduled conference since at present we are still engaged in ascertaining our production capacity of those essential products which we shall be called upon to produce in case of war" (PE 196). In March 1937, the V/W sent a circular to the Farben Works Combines in which the Farben plants are described as "vital war and economic factories". The circular dealt with the mobilization of the Farben plants and was directed to KUEHNE at Leverkusen and JAEHNE at Hoechst (PE 329). It was in April that Farben's Legal Department sent a letter to the TEA Bureau concerning the attempt of Farben to obtain tetrachlortitan in France. It was mentioned that: "In the modern offensive and defensive war technique, tetrachlortitan has actually assumed an

outstanding position. Because of its double quality as smoke forming agent and as carrier, tetrachlortitan has an importance in war technique which is equal to that of explosives. \* \* \* The present political situation makes the problem of producing artificial clouds more important than ever" (PE 632).

(7) In August 1937, KUEHNE sent a letter to SCHMITZ in which KUEHNE proposed that a Mr. Bachmann of Farben be appointed leader of the Economic Group Chemistry stating that "although an I. G. man, he is not so well known as an I. G. man that the general public might suspect that I. G. wants to fill this position" (PE 497). In September 1937, the V/D sent a letter to the various Farben leaders including representatives of the important plants concerning "mobilization planning tasks." It was stated that mobilization tasks could be divided into material problems and manpower problems. Production planning proposals were requested including current production plans and proposals for production planning in the event of mobilization (PE 197). Early experiments on Tabun were conducted at Leverkusen in 1937 (PE 653). Experiments on Nitrogen Lost had been started at Leverkusen as early as 1935 (PE 618; see Tr. 10143).

(8) In February 1938, Farben's "Bayer" organization, located at Leverkusen, sent a letter signed by the defendant MANN to all of the "Bayer" representatives abroad requesting that they support the Foreign Organization of the NSDAP (the AO) in their respective countries (PE 129; Tr. 10053). On 11 March 1938, MANN (KUEHNE's commercial counterpart at Leverkusen) attended the significant meeting of the Commercial Committee when mobilization was discussed along with discussions of the possible transfer of the principal Farben commercial headquarters from Frankfurt to Berlin (PEs 250, 803, and 2014). The relation of this meeting to an unmistakable knowledge of Germany's aggressive purposes has been

discussed in Part VI, "C - HERMANN SCHMITZ" at pp 60-61, supra. In May 1938, Farben's Leverkusen plant sent a letter to Farben plants and to representatives of a number of Reich agencies with respect to a conference on mobilization planning, including problems relating to the securing of personnel in case of mobilization, transportation problems, problems relating to change of shifts, etc. (PE 214). In the same month a "war delivery" contract was entered into by Farben's Leverkusen plant for photographic paper (PE 221). In July 1938, there was a meeting of the Patent Committee of Farben attended by representatives from the Lower Rhine. In discussing whether certain reports should be submitted to government agencies from the standpoint of having such reports become available to Farben competitors, it was decided that the matter should be discussed with the V/W and with KRAUCH (PE 450). In July 1938, there was correspondence between Leverkusen, Ludwigshafen, and the V/W with respect to the supply of toluol to meet the demands of the explosives factories (PE 123). On 20 September 1938, Struss sent a secret letter to Farben's TEA Bureau and to several large Farben plants with respect to deliveries in case of mobilization and with respect to transportation orders. The letter was addressed to KUEHNE, MURSTER, LAUTENSCHLAGER and BUERGEL, among others. Reference was made to the fact that during the first days of mobilization, articles could only be shipped under orders of the proper military economic inspection offices. Details were given as to how the application for transportation orders should be filled out. It was also stated that with respect to certain "goods which are delivered for export, transportation orders must also be applied for. In order to maintain uniformity, we request that one start with the assumption that deliveries cannot be made to Czechoslovakia, Russia, France, England, or



countries overseas" (PE 223). On 24 September 1938, the V/A sent a letter to KUEHNE, JURSTER, LAUTENSCHLAGER, and BUERGIN, among others, concerning securing the means of transportation in case of "Mob Fall". Detailed information was given with respect to the type of goods which could be transported, methods of transportation, priorities, etc. Instructions were given with respect to the first 10 days of mobilization; the first 21 days of mobilization, etc. Among other things, it was stated: "We learned at the last conference of the Reich Ministry of Transportation that all Reich railroad offices are being instructed to accord transportation to tank cars in the first days of mobilization" (PE 224). On 21 September 1938, the Vorstand was advised by the Commercial Committee of the details of the chemical plants in Czechoslovakia (PE 1043). On 22 September 1938, the Central Committee of Farben placed 100,000 Reichmarks at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps. KUEHNE and most defendants were informed (PE 834). For other activities of Farben immediately preceding the occupation of the Sudetenland beginning on 1 October 1938, see Part VI, "B - CARL KRAUCH" and Part VI, "H - TER MEER". On 13 October 1938, a conference was held between representatives of Farben and representatives of the firm von Heyden concerning the Aussiger Verein with KUEHNE, VON SCHNITZLER, HAEFLIGER, and ILGNER present. VON SCHNITZLER stated in introduction that "I. G. had already concerned itself for several months with the problem of what was to happen when Sudeten Germany, and with it the factories of Aussig, Falkenau, and perhaps Hroschau, would come to Germany." He stated that a committee had been set up in Farben which had thoroughly investigated this question (PE 1108). In November 1938, a meeting of the technical management at Frankfurt noted that the appointment of foreigners must be avoided at all costs (PE 158).

THE YEAR 1939

(9) In February 1939, the V/W sent a secret letter to Farben's Leverkusen plant suggesting a conference of mobilization managers of Farben's major plants on the status of mobilization planning and in order to bring mobilization work within Farben on a common basis (VE 238). A report by Army Ordnance in February 1939 discussed the production of explosives listing the plants producing various types of explosives. Diglycol, oxol-L, D-L, Z-stoff, and other products are mentioned as being produced at Leverkusen (PE 609). On 15 March 1939 (the day of the invasion of Bohemia and Moravia), a conference of mobilization managers of Farben's principal plants was held at which was discussed common mobilization problems, including mobilization of the German industry in general and mobilization of Farben plants in particular; air raid precautionary measures; transportation problems; assurance of manpower; security questions; preliminary work for turnover from peace to war production; mobilization orders; changes in shifts; employment of women in case of mobilization; etc. (PE 239). On 16 March 1939, the Military Economy Inspector sent a letter to Leverkusen giving information concerning the creation of a Military Economy Leader Corps. It was stated, among other things, that "the war economy leaders should be responsible collaborators of the Wehrmacht in preparing and carrying out the mobilization of the armament industry and in the conduct of the war" (PE 491). In May 1939, the Donau-Chemie sent a letter to Farben concerning the settlement of claims of dismissed non-Aryans. The letter states that KUEHNZ had authorized settlement with the non-Aryans without further inquiry "for no more than 50% of the amounts to which they have a legal claim" (PE 1101). In June 1939, : secret

letter from the V/W to the defendant VON KNIEREM inclosed a report by the V/W on development and research work of Farben done on Wehrmacht orders or in conjunction with the Wehrmacht. A copy was sent to Leverkusen and to TER MEER, as head of Sparte II. The report referred to the increasingly large proportion of development and experimental work of Farben plants being carried on at the order of the Wehrmacht or in conjunction with the Wehrmacht; the accomplishment of developmental work of the Wehrmacht and Farben; shadow factories constructed by Farben; etc. With respect to the shadow factories, the report refers to factories having a "purely reserve character" in which production would start "only in case of an emergency" (PE 166). In July 1939, a letter from the V/W, with a copy to the TEA, discussed the supplying of the armament industry with fuel in the "Mob Fall." The letter, which was dated 12 July, concluded that due to the urgency of the matter, it should be answered not later than 20 July (PE 233).

(10) In August 1939, a letter from Farben's main office to Uerdingen, and offices of the TEA, discussed the production of "perstoff" poison gas. Reference was made to the building of a small plant at Uerdingen. The production of 800 tons of perstoff per month was discussed (with the aid of data available from the last war). (PE 655). In August 1939, the Vorstand approved the contribution of 50,000 Reichsmarks for the mobilization of the National Socialist Air Corps (PE 1047). In September 1939, a special meeting of Sparte II with KUEHNE, among others, present, discussed the situation caused by the outbreak of war. It was stated that "the present mobilization program which embraces all manufacture by I. G. became effective on 3 September 1939" (PE 265). On 30 September 1939, KUEHNE sent a letter to AMBROS confirming that Leverkusen would take



over the planning, construction and operation of a D-mustard gas plant (PE 640).

(11) The role which KUEHNE played in the activities of Farben during this period was a most important one. As plant leader at Leverkusen and as head of the Works Combine Lower Rhine, KUEHNE had under his charge "one of the most versatile chemical plants in the world" (testimony of KUEHNE, Tr. 10088). The defendant HOERLEIN and the defendant MANN (as head of the Sales Department "Bayer") also had their headquarters at Leverkusen or the nearby associated Elberfeld plant (Max Brueggemann, who was severed from this case as a defendant, also had his office in Leverkusen). The following excerpts from the testimony of defendant KUEHNE give a good description of this activities:

"Under my charge were the scientific and technical direction of most of the plants, all those plants for which the other gentlemen mentioned were not competent. Under the Law for Regulation of National Labor, I was the plant leader for the entire Leverkusen plant. Therefore, I was responsible for the workers, the care for the workers, and the employment of laborers in Leverkusen" (Tr. 10087). \* \* \* Under my charge, next to the inorganic departments, were the many-sided intermediate products plants, the dyestuffs plants, the photographic department, the Buna plant, and the various synthetic plants, the various scientific laboratories, the large engineering departments, individual pharmaceutical production plants, and finally one rayon plant" (Tr. 10088). \* \* \* Without wanting to belittle Mr. Wilson's activity with General Motors, I do believe that he did not have as many technical, social and administrative tasks in his work as I did, and we cannot compare our jobs" (Tr. 10151).

SOME ESPECIALLY INTERESTING CONTEMPORANEOUS DOCUMENTS

(12) A series of about 15 documents introduced during the cross examination of KUEHNE are particularly significant in assailing vague and tenuous defenses and establishing the guilt of the defendant KUEHNE for the preparation of and participation in the waging of aggressive wars.. In this connection, the attention of the Tribunal is specifically directed to PE 2064 through 2078. We will now proceed to discuss these documents briefly.

(13) In July 1935, a meeting of the deputy heads was held at Leverkusen under the chairmanship of KUEHNE. After a discussion of air raid protection measures, and regulations pertaining to high treason and secrecy, KUEHNE recommended participation in certain training courses, and repeated "his advice to enter the German Labor Front." KUEHNE also read at the meeting from correspondence with Gauleiter Hossfeld of the "Strength through Joy" organization, in which Hossfeld "especially acknowledged that the work of the Leverkusen plant in the field of popular education, is exemplary and impeccable" (PE 2065; see Tr. 10234-10237. Note also General Thomas' speech before the Wehrmacht College delivered on 1 November 1937, concerning conversion of the economy to military economy. He stated that the organization "strength through Joy" was "accomplishing outstanding results for the binding of economy and the military power in an ideal leadership which gives us a foundation for a real military economic preparation for war" (PE 1613).

(14) In October 1935, Farben Sales Combines Chemicals sent a letter to KUEHNE and others with respect to "the erection of a further aluminum plant in the protected area." Reference was also made to the difficulties which arose at the Leverkusen plant regarding Cryolite supplies to fulfill the commitments of the Vereinigte Aluminumwerke. There was

also a discussion of the erection of a hydro fluoric acid plant in central Germany at an early date (PE 2067; Tr. 10240, 10241). In December 1935, the V/W sent a letter to KUEHNE, requesting him to appoint a deputy for the Dormagen plant, pointing to the request of the Reich authorities for a list of confidential agents for W-Affairs (Wehrmacht affairs). (PE 2068; Tr. 10241-10243). On 17 April 1937, the V/W sent a letter to KUEHNE concerning the "appointment of confidential agents" for military economy affairs. It was pointed out that in most Farben plants, the confidential agents of the Reich War Ministry <sup>were also appointed as the confidential agents of the Reich Ministry of Economics</sup> (and vice versa) and by appointing the same person to both positions, the number of confidential agents who had to keep secret important matters was kept as small as possible. Reference was made to the confidential agents of the Reich Ministry of Economy as connected with "war plants and vital plants" and the confidential agents of the Reich War Ministry as connected with "armament plants." Special reference was also made to the war supply agreements and the sub-contractors agreements which had to be checked by the Wehrmacht and which had to be "continued in the mobilization plans." It was specifically noted in handwriting on the letter that this whole matter was discussed with KUEHNE on 22 April (PE 2069; Tr. 10243-10244). On 26 April 1937, KUEHNE sent a letter to KRAUCH recommending a person connected with the firm of Kalle-Chemie for a position in KRAUCH's office. In making this recommendation, KUEHNE stated:

"I am doing this willingly and with a clear conscience, for two reasons. In the first place, it will probably not be unpleasant for you either if you also have assistants from firms other than the I. G. Our relations with the Kalle-Chemie are so good, after all, that Herr Ruesberg would do nothing that would go against the interests of the I. G., without good reason" (PE 2070).

This contemporaneous document shows what really was in the mind of Farben Vorstand members with respect to the "neutrality"



and importance to Farben of the KRAUCH office.

(15) Since KUEHNE became a principal leader of the newly acquired chemical plants in Austria, over which Farben secured full control after the invasion of Austria, this is an appropriate point in this final brief to discuss plans for reaping the "fruits" of aggression with respect to Austria. It will be necessary to relate the occurrences of several meetings of two of the principal committees of the Farben Vorstand:

(a) On 2 March 1938, a meeting of the Chemo was held with KUEHNE, HAEFLIGER, WURSTER, and BUERGIN, among others, present. "A report is given of the reasons which have led to the starting of negotiations concerning an interest in the Skodawerke-Wetzler A.G., Vienna." The Chemical Committee agreed to a 51% participation of the Austrian group "on the condition that the agreement includes certain guarantees which make it impossible for I. G. Nobel to be outvoted in important questions." It was further stated that:

"The new firm is to be promoted in such a way that Skodawerke Wetzler A.G., Vienna, increases its capital and absorbs the Austrian plants of the A.G. Dynamit/Nobel, Bratislava under another name" (PE 2077; see also Tr. 10258-10259).

(b) On 11 March 1938, one day before the invasion of Austria, the Commercial Committee held another meeting (PE 893). HAEFLIGER (who had also attended the Chemo meeting of 2 March 1938), attended this meeting of the Commercial Committee. "The march into Austria . . . was already an established fact" to the commercial men present (PE 2014, notes of HAEFLIGER).

(c) On 5 April 1938, the Chemo held another meeting (PE 2078). HAEFLIGER reported on his conferences in Germany, and spoke of negotiations "along the lines of I. G. . . . to acquire a majority of approximately 70%."

HAEFLIGER speaks of "the better prospects which the Anschluss has brought for the future of the enterprise."

(16) It is clear that the "established fact" of the "march into Austria" was in the minds of those who attended the Chemie meeting of 2 March 1938. The fact of the Anschluss merely enabled Farben to extend its plan for an increased minority participation, with certain guarantees, to a majority participation in which Farben was unlimited master of the situation. For the Austrian plants this meant subjection to Germany's mobilization measures. By 3 May 1939, Dr. Warnecke (KUEHNE's deputy for mobilization questions at Leverkusen), wrote the management of the newly formed Donau-Chemie concerning "mob planning":

"In order to carry through without delay the first preparatory steps for the establishment of the Mob calendar, Dr. KUEHNE has instructed me to tackle this problem for Donau-Chemie A.G. on the strength of my experience in Leverkusen...I assume that these preparations can be completed without difficulty before the deadline expires."

KUEHNE also took up with KRAUCH's office the project of having Donau-Chemie erect a sulphuric acid factory at Moosbierbrunn (See PE 2073, 2074, 2075, 2076; Tr. 10249-10251). As chairman of Farben's "Southeast Europe Committee" from 1938 to 1944 (PE 1618), KUEHNE knew what was "going on" in occupied Eastern Europe--and he knew why!

(17) There has been a good deal of testimony by the defendants concerning synthetic gasoline, home-made "buns", and a "Volkswagon" for every German in connection with Hitler's autobahn and motorization program. But KUEHNE knew, at least by 1938, that motorization and the Four Year Plan were mainly geared to "military preparedness." He also stated in a magazine article published on 1 August 1938, entitled "The Chemical Industry and the Four Year Plan":

"Let us first consider some of these fields from two main aspects which are vital to a nation: Achieving military preparedness and safeguarding physical life by means of food and clothing. The conception of achieving military preparedness is closely allied with the motorization of Germany, although the latter is also being carried out for other reasons, such as making it possible for every German to have his own vehicle. The carrying out of motorization is closely connected with the guaranteeing of German oil and motor fuel supplies" (PE 2072; see Tr. 10247-10248).

The motor vehicle for every German is inserted as an afterthought of "justification" to the public according to the formulation which KUEHNE published for general consumption at the time in question (1938). In October 1941, the defendant KUEHNE sent a letter to the defendant SCHMITZ, referring to a meeting which he had had with Walter Funk, Reich Minister of Economics, and a number of government officials and industrial leaders. KUEHNE states that after Pleiger, Chairman of the Vorstand of the Hermann Goering Works, criticized big industry, Funk made the following statement with respect to I. G. Farben:

"Naturally, coal, iron, guns and procurement of materials were necessary for waging war and the importance of the industries must not be underestimated. However, one thing we must establish, without the German I. G. and its achievements, it would not have been possible to wage this war. You can imagine I was overjoyed and expressed to Herr Funk my thanks in the name of the whole I.G." (PE 2064; see Tr. 10232-10234).

(18) In discussing an air raid on the Leverkusen works in 1941, which damaged certain important drugs urgently required by the Wehrmacht, KUEHNE stated in a letter to KRAUCH: "Foreseeing difficulties which might possibly arise later, we already made our first application for the construction of this new pharmaceutical plant in November 1937" (PE 2071; Tr. 10247).

(19) KUEHNE's continued interest in using totalitarian governments to assist Farben's expansion is neatly illustrated by a letter he wrote the defendant SCHMITZ in May 1942,



reporting about a conference he had had with Mussolini and the Italian Minister of Corporations, Ricci, concerning Farben's collaboration and financial participation in Italian firms. KUEHNE describes the satisfactory nature of his visit with Mussolini, and the effect which it had had in causing certain Italian firms to accede to the wishes of Farben (PE 2066; Tr. 10239, 10240).

#### THE WAR YEARS

(20) After 1 September 1939, KUEHNE continued to play a leading role in the German war effort, from his participation in a major way in the aggressive wars being waged, knowing that their purpose was conquest. His activities were indispensable to the waging of these aggressive wars and the preparation for new acts of aggression. In addition to his activities in creating and equipping the Nazi military machine for aggressive war, in what might be called the field of production, KUEHNE also participated in the initiation, preparation, and waging of aggressive wars, through his participation in the spoliation activities charged in Count II of the Indictment, and in the slave labor activities set forth in Count III of the Indictment.

#### b. COUNT II - PLUNDER AND SPOILIATION

(21) As a Vorstand member and through participation in the TEA, KUEHNE participated in, approved and ratified Farben's spoliative acts in the various occupied countries. The following paragraphs give only a few illustrative examples of special knowledge and participation.

#### Poland

(22) In the Polish case, KUEHNE attended the Vorstand meeting of 8 November 1939. The minutes (PE 2120) show the concentrated and coordinated efforts made by Farben at that

time to penetrate conquered Poland (See Part III, supra, and Part VI, "S - WURSTER", below).

#### France

(23) He was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine: Strassbourg, Merlenbach and Diedenhofen (PE 2192).

(24) Francolor: Though not a member of Farben's Commercial Committee, KUEHNE attended the 37th meeting of the Commercial Committee on 12 November 1940 where

"VON SCHNITZLER reported on the progress of the negotiations in Wiesbaden and Paris, and on the negotiations with the French group which are now to follow immediately" (PE 1622).

As a member of the Vorstand, he received VON SCHNITZLER's report on the Wiesbaden meetings with the French industrialists of 21 and 22 November 1940, which is self-explanatory (PE 2195). As a member of Farben's TEA (Technical Committee) from 1926 to 1944 (PE 1618), he also attended the TEA meeting of 17 December 1940, where TER MEER, speaking of Francolor, reported that:

"An agreement was reached with the French dyestuff group whereby we are assured of decisive influence on French dyestuff production" (PE 345).

He was, again, present at the Vorstand meeting of 10 July 1941 where VON SCHNITZLER

"gave a report on the negotiations which had been successfully concluded with respect to Francolor" (PE 1177).

(25) KUEHNE also attended the Vorstand meeting of 12 December 1940 where defendant MANN reported on the license agreement with Rhone-Poulenc which was contemplated (and later on concluded) for a 50 years' period, and where MANN also stated:

"In addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital" (PE 1270).

The Vorstand members present, among them defendant KUEHNE, "agreed to this line of action" (PE 1270).

#### Norway

(26) Defendant KUEHNE was advised of the Metal Sub-Commission meeting of 16 April 1940 where Mayer-Kuester reported that the

"Norwegian economy will be mobilized to work for us" (PE 1192).

He attended the Vorstand meeting of 5 February 1941 where

"after a detailed discussion..., it was emphasized that I. G. has considerable interest in gaining a firm footing in Norway",

and where defendant HAEFLIGER and Hoschel reported on the plan of participation in the Norwegian light metal production for the German Air Force (PE 1193).

#### Russia

(27) As a member of the Vorstand, he received de Heas' report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (PE 1175). That he participated in such planned "reconstruction" is shown by PE 1568; see also PE 1177.

#### c. COUNT III - SLAVE LABOR AND MASS MURDER

(28) Defendant KUEHNE was the Plant Leader at Leverkusen as well as the Plant Leader for all of the plants of the Farben Lower Rhine Combine. He was a member of and attended the Plant Leaders Conferences which were called by the chief plant leader, defendant SCHNEIDER. In these Plant Leaders Conferences all social matters concerning workers were



discussed, including everything from sickness reports to disciplinary measures (PE 394). Defendant KUEHNE also regularly attended the meetings of the Enterprise Advisory Council (PE 1323). KUEHNE was present at the Enterprise Advisory Council meeting of 11 March 1941, when SCHNEIDER reported that 18,000 drafted employees were replaced by 12,366 foreigners of which 2,160 were prisoners of war. In this meeting there was also unanimous agreement that it would not be possible to dispense with foreign compulsory labor. Satisfaction was expressed as to the cooperation with the authorities and the German Labor Front in this sphere (PE 1350).

(29) In March 1943, Leverkusen urged that steps be taken to comb the chemical industry in France and Belgium for workers to be utilized in the chemical industry in Germany (PE 1326). The initiative exercised at Leverkusen in reference to the matter of securing labor is also indicated by a report dated 27 July 1943, covering a conference of Leverkusen officials with the deputy for construction matters re labor allocation for construction work. The report notes that concerning the allocation of workers, Leverkusen received no assistance from any source, not even from Goebbeln despite many applications, and that if Leverkusen had not helped themselves to foreign labor, the situation would be embarrassing (PE 1378). Leverkusen arranged specifically for the procurement of Eastern workers. Leverkusen urged the Labor Office to continue efforts for the allocation of the Eastern workers for which arrangements had been made (PE 1393).

(30) Leverkusen was informed which of its foreign workers were compulsory and which were volunteers. A letter from Goebbeln to Leverkusen points out that the numbers on the recruiting slips with 4 - 5 digits are for forced laborers, and the ones with 6 - 7 digits are for voluntary laborers (PE 1387). A circular dated 11 July 1942, issued by the Leverkusen Social Department, gives a definition of the word

"Ostarbeiter" (Eastern Worker) which clearly indicates that Eastern workers were forced workers (PE 1373). Its regulations with respect to Polish workers leave no room for doubt concerning KUEHNE's attitude towards the voluntary character of the Polish workers. A circular letter dated 29 December 1941 was issued, stating that German workers were always to remember that Poles are citizens of an enemy state, that no social contact is permitted, and that Poles at all times must wear a special symbol of their work clothes (PE 1372).

Although leaves for Poles were permissible under official regulations and restrictions, Leverkusen did not grant such leaves because it was assumed that the Poles would not return (PE 1386). The manner in which the 120 workers from Swannet and Francois, who were sent to Leverkusen, came to Germany, and the fact that they were involuntary, is indicated by the Belgian Court's decision and judgment in 1944 in the case against Swannet and Francois. Both were found guilty and sentenced to 20 and 15 years, respectively, at hard labor (PE 2052).

(31) The minutes of conferences of the Technical Department leaders committee at Leverkusen are very revealing as to the knowledge, initiative and activities of KUEHNE in respect to the employment and treatment of foreign workers. On 8 October 1941, it was reported that it was the intention to employ foreign workers up to an average of 30 per cent of the total workers. On 22 January 1942, KUEHNE reported the urgent need to increase the foreign workers and retain those already in the plant. On 19 May 1943, it was reported that female Eastern workers should be withdrawn from easy jobs to replace male handiwork. KUEHNE was present at all of the above meetings, the minutes of which bear the initials of VON SCHNITZLER (PE 1370). On 11 November 1941, the assignment of Russian PW's was discussed in the Leverkusen Directors Conference. And on 13 January 1942, it was suggested that the

subsistence deduction from the payroll of Polish juvenile workers be examined. On 23 March 1943, it was reported that also in Leverkusen, aliens are used for urgent Sunday jobs. KUEHNE was present at all the above conferences. On 6 March 1944, it was reported that Warnecke (KUEHNE's mobilization deputy), would go to Italy soon to procure people for the Economic Group; present camps for foreigners were fully equipped; it was necessary to complete the construction of additional barracks soon. On 10 July 1944, it is reported that female foreign workers who spend the night out of camp will be locked up by the police from Saturday noon until Monday morning to avoid a work shortage (Note: KUEHNE was present, although this is after the time KUEHNE claims he "disestablished" himself as plant leader of Leverkusen). On 3 October 1944, it is stated that Leverkusen is supposed to furnish 75 masons for concrete work at the Western Wall. The Speer Ordinance is referred to that specialists must not be withdrawn from the armament industry, so inexperienced laborers only will be given up, mainly female Eastern workers. On 13 November 1944, it is stated that several barracks are vacant because aliens have left. These barracks are to be deloused (decontaminated) and put in order so that they may be used by German families (PE 1371).

(32) The inadequacy of medical care for foreign workers at Leverkusen is revealed in contemporaneous documents, including letters from Leverkusen's own physician, Dr. Feder. On 17 November 1943, Feder wrote to Leverkusen and declined responsibility for health conditions unless a minimum program was executed (PE 1381). Dr. Feder had previously on 20 October 1943, revealed that he was the only one providing medical attention for 4,000 foreigners. This same report indicates the involuntary aspect of the foreigners' work and their distaste for the work inasmuch as there were self-mutilations



going on among the foreigners. It is stated that the medical treatment for self-mutilation is very rigorous and severe (PE 1382). As early as January 1943, correspondence was sent to KUEHNE by his own people in Leverkusen concerning the conditions in the foreign labor camps. It was stated that it was first intended to quarantine all foreign camps, But by pointing out that almost 4,000 people were concerned whose absence would doubtlessly decrease production, the quarantine had been avoided. This is just another indication of Farben's program for production at all costs (PE 1384). A Central Inspectorate (Government agency) letter to Leverkusen states that their foreigners' camps Eigenheim and Buschweg are too crowded, the accommodations are filthy and full of vermin, and the question of abortions on Eastern workers and Poles in connection with the problem of too many children will be dealt with later. The letter also states that foreign workers with stomach and dietary diseases should, in the interest of faster utilization for work, get those food improvements officially conceded to them (PE 1390). Other correspondence from Dr. Feder threatens to inform the Public Health Department if the Leverkusen Engineering Department does not act. The drainage system of the women's camp Buschweg is reported as endangering health conditions, and to avoid recurrence of a typhus epidemic, immediate action is demanded. A note indicates that there was failure to eliminate the untenable conditions (PE 1391). A letter dated 26 January 1943, and report dated December 1942, by Dr. Gerhard Fuerst of Farben's VO/I, indicates that high army officials on the Eastern front had asked Fuerst to point to the fact within the firm that many things happening in the homeland in the treatment of Eastern workers cost German blood out there. The report has a stamp "signed Dr. KUEHNE" (PE 1374). In September 1943, the Commissioner of the Plenipotentiary for Special Problems of Chemical Production in Belgium wrote to Leverkusen complaining of the conditions

affecting 120 workers sent to Leverkusen by the Belgian firm of Swannet and Francois. The letter stated:

"One workman of the Belgian firm has already died, another one fell ill with typhoid. Of the whole body of foreign workmen, about 25% are said to have contracted typhoid" (PE 1379).

(33) Orders issued at Leverkusen for punishment of foreign workers were severe. A memorandum issued 14 November 1942 provided that all foreigners who did not work would be deprived of their food (PE 1394). A circular letter dated November 1943 provided that Leverkusen plant shops were required to make lists of unsatisfactory workers in order that the Plant Security Guard could work such people on Saturdays and Sundays until they became better (PE 1383). Foreigners who escaped or did not return from leave were reported by Leverkusen to the authorities (PE 2082 and 2083).

(34) At the 11 March 1941 meeting of the Enterprise Advisory Council, SCHNEIDER reported on the employment of 2,160 PWs (PE 1359). The improper employment of prisoners of war is indicated by a letter from Leverkusen to the Labor Office dated 15 January 1944, wherein it is stated that five French PWs have worked for a year in the chemical sector and have been entrusted with very important work (PE 1385). Statistical reports dated 31 July 1944, from Leverkusen to Gebechem, show 52 male and 35 female foreign workers and 26 prisoners of war working in the poison gas section; and 337 male and 154 female foreign workers and 152 prisoners of war working in the gunpowder and explosive section (PE 1392).

(35) The treatment of prisoners of war at KUEHNE's Leverkusen plant was equal to, if not worse than, the treatment of its foreign workers. A circular of the Leverkusen Social Department dated 7 October 1943, states that Leverkusen will now employ Italian military internees and they will be treated like the French PWs (PE 1390). This is interesting in

in connection with a report dated 9 June 1943, signed Heckstein and marked for the kind attention of Dr. KUEHNE, which states that Bruex communicates that it is now permitted to beat also French prisoners of war for an infraction of discipline (PE 1376). The treatment accorded Italian military internees is also indicated by a Leverkusen circular dated 3 April 1944, wherein it stated that all guards were obliged to recklessly intervene if Italian military internees are negligent or lazy--and since there are not enough guards available, the German personnel of Farben must control them sharply (PE 1386). A few weeks prior to the issuance of this circular, the factory administrative committee of Leverkusen noted at a meeting that the Italian military internees who had been at Leverkusen a long time were in a bad nutritional state (PE 1386). A letter dated 9 February 1942, from Leverkusen's Heckstein to the department chiefs, plant managers, etc., concerns punishment of prisoners of war. It is stated that gross infractions of discipline are to be reported to Dr. Heckstein for special penalties (PE 1375). A letter of 24 May 1943 from a German commanding officer complained that German soldiers received the same food as prisoners of war. A Leverkusen reply to this letter states that as a matter of course the food is different and that this is an exceptional case (PE 1377).

(36) As of 22 March 1945, 4,294 foreigners were employed at Leverkusen, of whom 1,464 were women. The number of prisoners of war employed was 300 (PE 1395). This is to be compared with the total number of about 12,000 workers employed at Leverkusen (PE 1559).

(37) Defendant KUEHNE testified that he released the management of the Leverkusen plant to Haberland as of 1 August 1943 and relinquished the remainder of the Lower Rhine leadership at the end of December 1944. He still continued to attend the directors conferences at Leverkusen up until July or August 1944 (Tr. 10264). He admitted on



cross examination that after 1 August 1943, Dr. Haberland continued the same policies on social welfare matters that had been in effect during his (Dr. KUEHNE's) regime at Leverkusen (Tr. 10265). This is of particular significance because all through his cross examination KUEHNE testified that such and such a thing happened after "his time" at Leverkusen. What happened, however, was a result of the continuation of the policies which had been in effect prior to 1 August 1943. It is also significant that KUEHNE bore the responsibility for the remainder of the Lower Rhine Combine up until December 1944 (he said that he was no longer at Leverkusen after October 1944). In view of such responsibility he would necessarily be "interested" in the social welfare directives and circulars which emanated from Leverkusen to the other plants of the Combine.

(38) KUEHNE testified on cross-examination that Leverkusen did not follow the practice of reporting foreign workers who did not return from leave. He then stated:

"If such people stayed away from work, we had to find a substitute for them and then, of course, the reason has to be stated why the replacement became necessary" (PE 2081, 2082, 2083; Tr. p. 10265).

(39) In connection with the furloughing of Poles and Leverkusen's policy thereon, KUEHNE stated that there was a continuous controversy between the desires of each plant leader and the official regulations in that the plant leaders wanted to give the Poles as much furlough as possible, but the authorities tried to restrict it (Tr. 10268). When asked to reconcile his statement with the minutes of a Leverkusen Administrative Committee meeting (PE 1386) indicating that Leverkusen had not made use of official policy allowing leave to Polish workers, KUEHNE stated that when he read this document, he was very much disgusted at its contents (Tr. 10269). KUEHNE's counsel stated that

KUEHNE Exhibit 97 answered the Prosecution's question on this matter of Leverkusen's policy of furloughing Poles. KUEHNE Exhibit 97 is an affidavit by Hermann Morsch who, although it is not stated, apparently is an employee at Leverkusen. Morsch stated that the Factory Administrative Committee in its meeting of 30 August 1943, decided not to grant Poles furloughs and that this decision resulted from an objection to further furloughs for Poles by the competent labor office. He further stated that this decision was rescinded on 16 March 1944 by the Factory Administrative Committee (the minutes of this meeting are found in PE 1386). How Morsch's affidavit answers or explains the clear verbiage set forth in PE 1386 is impossible to discern. There is no reference that there was any objection on the part of the labor office or any other Reich office to the furloughing of Poles. On the contrary, it is specifically stated in PE 1386 that it was the previous decision of the Factory Administrative Committee not to grant furloughs to Poles in accordance with official regulations for fear that they would not return. It is further clearly indicated that this decision was rescinded because it was an untenable one in view of the knowledge on the part of the Police themselves concerning furloughs and the practice of other plants in the vicinity to grant such furloughs. It is also noted that twenty Farben officials attended the Factory Administrative Committee meeting of 16 March 1944 (Ibid), but the efficient Morsch's name does not appear.

(40) KUEHNE testified on direct examination that Leverkusen was unable to obtain workers through the so-called "red slip action" because Leverkusen was not an armament plant (Tr. 10269). However, when called upon by the Reich Defense Commissar to "deliver" 76 masons, Leverkusen referred to the ordinance of Speer that specialists must not be with-

drawn from the armament industry, and thus only female Eastern workers would be given up (PE 1371). KUEHNE was unable on cross examination to explain this inconsistency (Tr. 10270).

(41) On cross examination Dr. KUEHNE manifested some surprise concerning the Central Inspectorate for Foreigners report that the accommodations at Leverkusen contained quite an amount of vermin. H. stated that this was long after his time although as previously indicated, he continued to attend Leverkusen directors' meetings until July or August of 1944 (Tr. 10272). On cross examination KUEHNE was also unable to clarify the Central Inspectorate's report on Leverkusen to the effect that it was necessary that foreigners with stomach trouble should be given food which was officially permitted them. The record on this is somewhat confused by the fact that defendant KUEHNE at first referred to the file notes of the Leverkusen personnel section on the Central Inspectorate's report rather than to the report itself (Tr. 10274).

(42) In connection with whether or not KUEHNE considered it wrong to bring foreigners to Leverkusen involuntarily and expose them to such conditions as bombing, etc., he stated:

"Well, we were living under the very same conditions and I already stated initially I was more endangered than the foreign workers" (Tr. 10274).

(43) With respect to the activities of Farben in Auschwitz and KUEHNE's responsibility therefore, see Part IV of this brief.

#### d. COUNT V - CONSPIRACY

(44) The comments made in the individual brief on the defendant KRAUCK, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant KUEHNE.



5. Defenses Interposed by KUEHNE:

(a) Some defenses have been answered in the text immediately above. More general defenses are handled in Part V or under defendants whose specialized testimony makes a discussion more appropriate under their case.

6. Proposed Findings of Fact with Respect to the Guilt of HANS KUEHNE

The evidence has established beyond a reasonable doubt, the guilt of the defendant HANS KUEHNE on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant KUEHNE under each of these Counts is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of KUEHNE, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression:

(a) KUEHNE's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1933 to 1945; as a member of the Technical Committee during this whole period; as Chief of the Works Combine Lower Rhine during this period; and as Plant Leader of the Leverkusen plant from 1933 until at least August 1943.

(b) KUEHNE's activities as Chairman of Farben's Southeast European Committee, as deputy chairman of the Verwaltungsrat of Dynamit Nobel in Czechoslovakia, as General Director and Chairman of Donau-Chemie in Austria; and as member of the Aufsichtsrat of various chemical concerns in Czechoslovakia, Austria, Italy, and Yugoslavia, as well as Germany.

(c) KUEHNE's activities carried on through the instrumentality of Farben and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. KUEHNE participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of such aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedoms. KUEHNE knew this for a number of reasons:

(a) KUEHNE knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to KUEHNE that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in KUEHNE's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by KUEHNE and the timing of such activities, establishes that KUEHNE knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by KUEHNE, at which the aims of the Nazi leaders were expressed, and KUEHNE's own statements on various occasions, are sufficient in and of themselves to establish that KUEHNE had the required state of mind.

(e) KUEHNE's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to KUEHNE; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, KUEHNE knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant KUEHNE.

(a) As a matter of law, even if the facts established that KUEHNE acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KUEHNE acted under duress or coercion in carrying out any of the activities specified above.



## Count II

1. The defendant KUEHNE knowingly participated in plans to spoliate, and in spoliating the chemical industries of occupied countries.

2. KUEHNE bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. KUEHNE played an especially active role in the plunder and spoliation of property in France (including Alsace-Lorraine) and Norway, and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant KUEHNE.

(a) As a matter of law, even if the facts established that KUEHNE acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KUEHNE acted under duress or coercion in carrying out any of the activities specified above.

## Count III (Sections A and C)

1. KUEHNE knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. KUEHNE took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons

who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of KUEHNE were, to KUEHNE's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. KUEHNE continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant KUEHNE.

(a) As a matter of law, even if the facts established that KUEHNE acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KUEHNE acted under duress or coercion in carrying out any of the activities specified above.

Count III  
(Section B - Mass Exterminations)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. KUEHNE participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. KUEHNE knew that human beings in concentration camps were being exterminated by gassing.

4. KUEHNE either knew that the aforementioned Cyclon-B gas was being used in carrying out this program of mass

extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

Count V

1. The foregoing activities were engaged in by the defendant KUEHNE in collaboration with the defendants who were members of the Vorstand of Forben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

2. The defendant KUEHNE, together with the defendants who were members of the Vorstand of Forben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.



1. Charges in the Indictment. The defendant LAUTENSCHLAGER is indicted under Count One (Crimes against Peace), Count Two (Plunder and Spoliation constituting War Crimes), Count Three (Slave Labor constituting War Crimes and Crimes against Humanity), and Count Five (Conspiracy to commit Crimes against Peace).

2. General Nature of the Evidence Supporting These Charges. LAUTENSCHLAGER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, LAUTENSCHLAGER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant LAUTENSCHLAGER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant LAUTENSCHLAGER sets forth certain highlights in the activities of the defendant LAUTENSCHLAGER and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. LAUTENSCHLAGER's Positions from 1933 to 1945. The positions which LAUTENSCHLAGER held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail



in PE 306. The following positions held by LAUTENSCHLAGER during these years are of special significance:

(a) LAUTENSCHLAGER was a member of the Vorstand from 1931 to 1945; a deputy member until 1938, when he was appointed a full member.

(b) LAUTENSCHLAGER was a member of the Technical Committee (TEA) from 1938 to 1945.

(c) From 1937 to 1945, LAUTENSCHLAGER was a member of the Pharmaceutical Committee of I.G. Farben, and participant at the Pharmaceutical, Scientific, and Main Conferences.

(d) In 1926 LAUTENSCHLAGER became a member of the Directorate of the Hoechst plants and remained in that capacity until 1938, and in 1938 LAUTENSCHLAGER was appointed Chief of the Pharmaceutical Department of the Hoechst Plants of I.G. Farben, with which he remained until 1945.

(e) From 1932 to 1938, LAUTENSCHLAGER was delegate to the Chief of the Works Combine Main Valley for Pharmaceutical questions of the Behringwerke A.G., Marburg and of the Serum and Impfstoffwerke Eystrup (Lueneburger Heide) and Neuhausen near Koenigsberg. Later also of the plant in Vienna and Typhoid Institute, Lemberg.

(f) In 1938 LAUTENSCHLAGER was appointed Plant Leader (Betriebsfuehrer) of the Hoechst plants and Chief of the Works Combine Main Valley. He held both of these positions until 1945.

(g) In 1942 LAUTENSCHLAGER was appointed a Military Economy Leader (Wehrwirtschaftsfuehrer).

(h) LAUTENSCHLAGER became a member of the NSDAP in July 1938, this membership was back-dated to 1 May 1937.

(i) Since 1936 LAUTENSCHLAGER was a member of the Aufsichtsrat of the Behringwerke A.G., Marburg/Lahn. In 1938 he became a member of the Aufsichtsrat of the A.G. zur Gemeinnuetzigen Beschaffung von Wohnungen in Frankfurt/Main and Chairman of the Aufsichtsrat of this company in 1940. He held this position until 1945.

4. Certain Specific Activities of LAUTENSCHLAGER During the Period 1933 to 1945. To place the specific activities outlined below in fuller

context with the progression of events in Hitler's Germany and in Farben, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual brief with the year-by-year narrative under "B - CARL KRAUCH", above. Special reference is made to the section of this brief (Part VI-0) on the defendant JAEHNE. Since LAUTENSCHLAGER was chief of the Works Combine Main Valley, director of the Hoechst Plant and from 1938 on Plant Leader at the Hoechst plant, and since JAEHNE was chief of the Technical Department at Hoechst, and deputy chief of the Works Combine Main Valley, it will be found that a considerable amount of specific evidence cited in this section of the brief is also noted in the section of the brief on JAEHNE.

"COUNT I - CRIMES AGAINST THE PEACE

(1) As early as January 1933, the Hoechst Vorstand (with LAUTENSCHLAGER present) discussed a visit to the War Ministry with respect to smoke screen materials (PE 136). At a meeting of the Hoechst Vorstand in February 1933 (with LAUTENSCHLAGER present), reference was made to tests for smoke producing agents (PE 137). In May 1933 the defendant JAEHNE made a report at a TEKO meeting on the progress of air raid precautionary measures; and the TEKO recommended a joint conference of the air raid chiefs of the individual plants to lay down guiding principles for all Farben plants (PE 171). In July 1933, a conference of Farben plant leaders from all Farben's works combines was held at Hoechst in connection with the problem of industrial air raid precautionary measures. The decision was made that Farben's Hoechst plant should be a clearing house for all air raid protection measures within Farben (PE 172; Tr. 9912-9914). In September, TEKO set aside 190,000 Reichsmarks for air raid protection measures in Farben plants (PE 174). In the same month, the management at Hoechst (with LAUTENSCHLAGER present) decided that employees were to be reprimanded because of the contempt which they showed toward the Nazi salute (PE 85). In October 1933, at a meeting of the Hoechst Vorstand (with LAUTENSCHLAGER present) an invitation to a public series of lectures by a GAU indoctrination leader on Hitler's Mein Kampf was accepted (PE 86). Meetings of the Hoechst Vorstand in November 1933



(with LAUTENSCHLAGER present) approved an arrangement concerning the training of SA men (PE 87); discussed air raid protection measures (PE 176); and discussed the installation of air raid precautionary apparatus, the furnishing of gas masks, etc. (PE 177).

(2) At a meeting of the Hoechst Vorstand in March 1934 (with LAUTENSCHLAGER present) an agreement was reached with para-military authorities concerning leave of absence and payment to participants in military sports camps (PE 86). In September 1934, a meeting of the TEKO, attended by JAEHNE, discussed air raid precautionary measures, and decided that these measures would have to be taken up with the Central offices of the Reich in Berlin. The minutes of this meeting were sent to the management at Hoechst (PE 178). At a special meeting of Sparte II in the same month, JAEHNE reported on air raid protection measures thus far taken, stating that the measures placed a considerable burden on the plants (PE 179). For various other meetings of this and other Farben agencies dealing with air raid protection measures during the period 1934 to 1939 and for LAUTENSCHLAGER's attendance at some of these meetings, see PE 182. In November 1934, at a meeting of the TEKO at Hoechst, the value of DINFA (German Institute for National Socialist Labor Training and Research) training courses were discussed, and it was pointed out that the value lay "less in the technical field than in the field of ideology." Participation was recommended. Minutes of this meeting were sent to the Hoechst management (PE 89).

(3) As early as 1935, Farben on its own initiative, began conducting experiments in its Hoechst laboratories on the manufacture of Hexogene. The OKH was informed immediately, and in agreement with the OKH these experiments were conducted (PE 110). The importance of Hoechst's contribution to the explosives program of the army ordnance office is shown by PE 111. In September 1935, THE MEER sent a letter to Farben's four main plant combines, announcing the creation of the V/W, and stating that Bruening would take over the tasks of the V/W for Sparte II in Berlin (PE 139).

4. In February 1936 at a meeting of the Hoechst management, LAUTENSCHLAGER submitted a "list of those products which are to be produced in Gersthofen in the event of war" (PE 191). At a meeting of the

Technical Board of Directors at Hoechst in March 1936 (attended by LAUTENSCHLAGER), JAEHNE stated that a building for the manufacture of solvents would go into operation by December; and also stated that planning exercises at Farben's Launa plant had shown the effectiveness of the defense system set up there (PE 183). A meeting of the Vorstand and the TEA held at Hoechst in May 1936 (with LAUTENSCHLAGER present) discussed Farben's "special position" in the procurement of raw materials from abroad (PE 760). In June 1936, a meeting of the Hoechst Vorstand with LAUTENSCHLAGER present discussed the "espionage decree" and a report was made concerning certain planned exercises which took place at Ludwigshafen, attended by military inspectors (PE 184). In June 1936, Goering sent a letter to Farben, addressed to the office of the TEA, concerning the expansion of synthetic rubber production at Schkopau, and requesting an increase in the capacity at Schkopau to 1,080 tons per month as soon as possible (PE 549). A meeting of the Technical Management at Hoechst held in July 1936 (with LAUTENSCHLAGER present), reported that Ritter and Eckell had left the V/W to join KRAUCH's staff (PE 407). A meeting of the Technical Management at Hoechst in August 1936 was informed of the new processes for the production of Siliciantetrachloride (smoke screen tests) from which Farben had been excluded. It was stated that Farben would approach the Berlin authorities in order that Farben "in view of the high experimental costs which have until now accrued" be assured of a supply of Siliciantetrachloride (PE 113). At a meeting of the Technical Management at Hoechst, held in October 1936, with LAUTENSCHLAGER present, the problem of the requirements of synthetic gasoline and synthetic rubber, and the supplies of artificial fiber, were discussed as the most urgent tasks of Farben under the Four Year Plan (PE 529). In November 1936, the Technical Management at Hoechst decided that synthetic rubber would be treated as a sales product as of January 1937 (PE 551).

(5) In January 1937, at a meeting of the Technical Management at Hoechst (with LAUTENSCHLAGER present) there was a discussion concerning amortizing Farben's projects under the Four Year Plan within ten years (PE 430). In February, the TEA reported on the credits available for

projects of the Four Year Plan (PE 680). In the same month, a meeting of the Technical Directors at Hoechst (with LAUTENSCHLAGER present) discussed a plan of KRAUCH's office for the construction of installations in connection with the production of various explosives (PE 606). In March 1937, a circular of the V/W directed to Farben's works combines (including Hoechst), with respect to the economic mobilization of Farben's plants, described the Farben plants as "vital war- and economic factories" (PE 329). And in March, the V/W addressed a letter to all Farben's works combines (including Hoechst), to the DAG, and to several other Farben agencies, concerning the "industrial mobilization tasks of the I.G. plants." It was stated that the V/W was engaged in working out mobilization schedules for the individual Farben plants. The general problem regarding mobilization schedules was to be handled by the Reich Ministry of Economics in cooperation with the V/W while problems of purely local importance would be dealt with by the plants with the branch offices of the Reich Ministry of Economic Affairs (PE 195). In April 1937, LAUTENSCHLAGER received a copy of a secret letter from Dr. Lutter, of I.G. Elberfeld to von Bruchning, who was in charge of mobilization questions in Hoechst postponing a mobilization conference because "we are still engaged in ascertaining our production capacity of that essential products which we shall presumably be called upon to deliver in case of war (PE 196). In April 1937, Farben's Legal Department sent a letter to the TEA bureau concerning the attempt of Farben to acquire Tetrachlortiten in France. The letter stated that "in the modern offensive and defensive war technique, Tetrachlortiten has actually assumed an outstanding position." It was mentioned that Tetrachlortiten is used as a smoke-forming agent, and as a carrier which enables the poison gas to impregnate the various parts of a house, etc. It was stated that "the present political situation makes the problem of producing artificial clouds more important than ever" (PE 632). In May, at a meeting of the Technical Management at Hoechst, it was indicated that the Nitrogen Section of Farben showed a considerable increase in shipments; there being an increase from 30 cars a day in 1936 to 120 cars a day in 1937 (PE 595). The same month



the V/W sent a letter to Farben's works combines, including Hoechst, with respect to secrecy regulations in connection with work being done for the Wehrmacht (FE 148). In September 1937, the V/W sent a letter to various Farben leaders (including representatives at the Hoechst plant) concerning the "mobilization planning tasks of Farben." Production plan proposals were requested, including current production plans, and "proposals for production plans in the event of mobilization" (FE 187). In November 1937, a meeting of the Technical Management at Hoechst discussed the demands of the Four Year Plan for technical experts from Farben (FE 410).

(6) From the beginning of 1938, mobilization questions were the regular order of business in the meetings of the TEA, of which LAUTENSCHLAGER was a member, and also in the meetings of the Commercial Committee (FEs 248, 249, 250). The mobilization tasks included contracts for items such as Sera and poison gas decontamination substances. War delivery contracts for these substances were entered into in July, August, and September 1938, the preliminary products being delivered by the Hoechst plant, among others (FE 254). In May 1938, LAUTENSCHLAGER heard a report on the decision to increase the three Buna Works capacity to meet the requirements for mobilization (FE 560; see also FE 1895). At a meeting of the Technical Directors at Hoechst in August 1938, attended by LAUTENSCHLAGER, a report was made on the visit of a representative of Army Ordnance concerning the production of Acetophenon. Experiments were to be carried on on a large scale (FE 124; see tr. 9919). On 15 September 1938, Farben's Sales Combine Chemical sent a memorandum to Hoechst concerning the production of Teutogen for the Reich Ministry of Aviation. Work was to go on three shifts per day, including Sunday. Teutogen is an intermediate for mustard gas (FE 631). On 19 September 1938, it was stated at a meeting of the Technical Management of Hoechst, at which LAUTENSCHLAGER reported concerning a prior Farben Vorstand and TEA meeting, that on 26 September "military economy practice" was scheduled to take place and it was stated that "from experience gained at the latest black-out practice" the necessity for changes in the lighting system, etc.,

was considered necessary. Directives, given at the TMA meeting for new equipment, etc., were discussed (FE 188). On 22 September 1938, LAUTENSCHLAGER was informed that the Central Committee of Farben placed 100,000 Reichsmarks at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps, which latter organization was formed to create disturbances on the Czech border (FE 834). One or two days prior to this LAUTENSCHLAGER was informed by secret letter from Struss, of transportation orders for deliveries in case of mobilization. Struss stated, "In order to maintain uniformity we request that one starts with the assumption that deliveries cannot be made to Czechoslovakia, Russia, France, England and countries overseas" (FE 223). On September 24, 1938, Struss sent a second secret letter to Hoechst concerning a revision of the previous orders for transportation measures to be taken for the first mobilization month. Struss urged that "since transportation plans will lead to extremely important measures for the first mobilization days, they must be complied with and submitted without delay" (Emphasis Struss) (FE 224). At a meeting of the Technical Management at Hoechst on 3 October 1938 (with LAUTENSCHLAGER present) it was reported that two supply lines "particularly vulnerable to air attacks should be spread out over a large area (FE 189). In November 1938, at a meeting of the Technical Management at Hoechst (with LAUTENSCHLAGER present) it was stated that the appointment of foreigners must be avoided at all costs (FE 158).

(7) In February 1939, Farben's Griesheim plant sent a letter to Farben's Hoechst plant, announcing changes in mobilization tasks for certain products, on the basis of a discussion with the Army Ordnance. The products manufactured were war products, and the production schedule was for the event of mobilization (FE 237). On 15 March 1939 (the day of the invasion of Bohemia and Moravia) a conference of mobilization managers of Farben's plants was held, at which there was a discussion of mobilization of Farben plants in particular; air raid precautionary measures; transportation requirements; assurance of manpower in the event of war; security questions; preliminary work for turn-over from peacetime to war

production; changes in shifts; employment of women in the case of mobilization, etc. The Farben plants were classified as "armament plants" and "plants essential to the war effort" (FE 239). On 18 March 1938 representatives of Farben Hoechst attended a meeting at the High Command of the Army, Arms Examination Group 9 which was concerned with explosives and chemical warfare agents (FE 125). In June 1939, the Military Economic Division sent a letter to Farben's Hoechst plant, containing new regulations of the Plenipotentiary for Economics and the OKW, with regard to preparations in case of war of plants important from the viewpoint of military economy. It was stated, in the future the plants designated thus far as "armament plants" and "plants that are essential to the war effort" would be uniformly designated as "military economy plants" abbreviated "W-Plants." Special measures were listed with respect to mobilization tasks (FE 242). In July, the V/W sent a letter to Farben's main plants, including Hoechst, concerning supplying the armament industry with fuel in war time. The letter which was dated 12 July 1939 concludes that due to the urgency of the matter, it should be answered not later than 20 July (FE 233). In July 1939, the V/W sent a letter to the defendant VON KNIERIK, enclosing a report by the V/W on development and research work on Farben done on Wehrmacht orders, or in conjunction with the Wehrmacht. A copy was sent to Hoechst and other offices of the TGA. The report referred to the increasingly large proportion of development and experimental work in Farben plants being carried on at the order of the Wehrmacht or in conjunction with the Wehrmacht; discussed "shadow factories" constructed by Farben for the armed forces; referred to the shadow factories as having a "purely reserve character" in which production would start "only in case of mobilization"; and spoke of this work as having been developed in the "past few years" (FE 166). In August 1939, the V/W sent a letter to Farben's Hoechst plant, submitting requirements for the current year for large machines and apparatus necessary for the execution of mobilization tasks (FE 244). In the same month, Farben's main plant at Hoechst sent a letter to ALBROS, BUERGIN and others, concerning the production of "Forstoff", a poison gas. Reference was made



to the production of Parstoffs with the aid of data available from the last war. The production of 800 tons per month was discussed. Reference was also made to the development of the Hexo, on process at Hoechst (PE 635). In August 1939, the Vorstand approved the contribution of 50,000 Reichsmarks for the mobilization of the National Socialist Air Corps (PE 1047). Reports dated February 1939 and August 1939, set forth the allocation of sulphuric acid and nitric acid to the DAP plants, and indicated the quantities which went from the Hoechst plant to the various DAP factories (PEs 2060 and 2061). At a meeting of Sparte II on 14 September 1939, with LAUTENSCHLAGER present, called to discuss the outbreak of war, it was stated that "the prepared mobilization program which embraces all manufacturing by I.G. became effective on 3 September 1939 (PE 265). On 6 September 1939 Farben Hoechst was informed by the V/A that the war contracts concluded previously were to become effective immediately (PE 266).

#### THE WAR YEARS

(8) Defendant LAUTENSCHLAGER remained the Chief of the Werke Combine Main Valley, with all its highly essential production for armament, throughout the war years. By his functions as a Vorstand member, the defendant LAUTENSCHLAGER contributed to Germany's waging of successive wars of aggression. His participation in spoliation and slave labor as a part of waging aggressive war is described immediately below.

#### b. CONT. II - PLUNDER AND SPOILIATION

(9) As a member of the Vorstand and as a member of the Technical Committee, LAUTENSCHLAGER participated in, approved of and ratified all of Farben's spoliative conduct in the occupied countries. The paragraphs below are merely illustrative.

(10) As a member of the Vorstand, he received de Haas' report on Russia, with accompanying letter of 3 January 1942 (PE 1175). He was, therefore, advised that the thorough stripping of Russian industrial cities of the South was being planned. He also knew that "big firms like Farben" will not be excluded from participation in the "reconstruction" in the East (PE 1175). That he participated in such planned "reconstruction" is shown by PE 1568; see also PE 1177.

(11) He was also advised in advance, and approved of, Farben's plan to acquire oxygen plants in the conquered East and West, more particularly in Alsace-Lorraine: Strasbourg, Marienbach and Diedenhofen (PE 2192).

(12) In the Polish case, LAUTENSCHLAGER attended the Vorstand meeting of 8 November 1939. The minutes (PE 2120) show the concentrated and coordinated efforts made by Farben at that time to penetrate conquered Poland (compare final brief WURSTER, III-B).

(13) LAUTENSCHLAGER participated in a meeting of the Pharmaceutical General Conference on 11 October 1940, at which NANN reported on his discussions with various officials concerning Farben's projects in France and its plan to establish together with Rhone-Poulenc, a distributing agency for France and the French colonies, in which Farben would have a 51 1/2 interest (PE 1266). As a member of the Vorstand, he received VON SCHNITZLER's report on the Wiesbaden meeting with the French industrialists of 21 and 22 November 1940, which is self-explanatory (PE 2195).

As a member of Farben's TEA (Technical Committee) from 1938 to 1945, he also attended the TEA meeting of 17 December 1940, where TEA XEER, speaking of Francolor, reported that

"An agreement was reached with the French dye-stuff group whereby we are assured of decisive influence on French dyestuff production." (PE 345)

He was, again, present at the Vorstand meeting of 10 July 1941 where VON SCHNITZLER

"Gave a report on the negotiations which had been successfully concluded with respect to Francolor." (PE 1177)

(14) LAUTENSCHLAGER also attended the Vorstand meeting of 12 December 1940 where defendant NANN reported on the license agreement with Rhone-Poulenc which was contemplated (and later on concluded) for a 50 years' period, and where NANN also stated:

"In addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital." (PE 1270)

The Vorstand members present, among them defendant LAUTENSCHLAGER, "agreed to this line of action" (PE 1270). LAUTENSCHLAGER also received a copy of the 3 July 1941 License Agreement between Rhone-Poulenc and Farben (PE 1682).

(15) LAUTENSCHLAGER attended the Vorstand meeting of 5 February 1941 where

"after a detailed discussion . . . , it was emphasized that I.G. has considerable interest in gaining a firm footing in Norway"

and where defendant HAEFLIGER and Moschel reported on the plan of participation in the Norwegian light metal production for the German Air Force (PE 1193; see also PE 1200).

(16) The defenses interposed by Farben have been discussed in the special brief Francolor and the individual briefs VON SCHNITZLER, TER MEER, KUGLER, and AMBROS (concerning the spoliation case Francolor); special brief Rhone-Poulenc); special brief Norway and individual briefs BUEGIN, HAEFLIGER, ILGNER, and OSTER (concerning the spoliation case Norway); individual briefs VON SCHNITZLER and TER MEER (concerning the spoliation case Poland); and individual briefs JAEHNE and WURSTER (concerning the spoliation of the oxygen plants in Alsace-Lorraine). Reference is made to these briefs.

c. COUNT III - SLAVE LABOR AND MASS MURDER

(17) Reference is made to Part IV of this final brief for additional material showing the involvement of the defendant LAUTENSCHLAGER as a Vorstand member in Farben's slave labor activities. In addition to his over-all functions and responsibilities as a member of the Vorstand and a member of the Technical Committee, LAUTENSCHLAGER was head of the Works Combine Main Valley and the Hoechst plant and in both he was plant leader under the law regulating national labor. He was also a member of the Plant Leaders Conference (Betriebsfuehrerbesprechungen).

LAUTENSCHLAGER has said:

"Since German labor was not available in sufficient numbers, we (JAEHNE and myself) welcomed the employment of foreign labor . . .

"In the course of time I came to know that the major part of the Russian workers were not recruited on a voluntary basis, but were simply seized on the basis of a roster and deported for work to Germany . . .

"I also knew that so-called Western workers were working in Germany under compulsion . . .



"... the Eastern workers were confined in fenced-in camps, were guarded by the I.G. plant guards, armed with pistols. . .

"Approximately 40 per cent of the production of the I.G. Farbenwerke Hoechst during the war was an outright armament production, and consisted of the manufacture of preliminary products for the making of explosives, smoke bombs . . . Prisoners of war were likewise employed in armament production in other plants of the "Mittelrhein" (Main Valley) Works Combine of the I.G. Farbenindustrie A.G., as, for instance, in the Griesheim Autogen Plant."  
(PE 1358)

LAUTENSCHLAGER's admission as to the improper employment of prisoners of war is corroborative of Heinrich Vesper's statement concerning this matter (PE 1369).

(18) LAUTENSCHLAGER has also stated that the Hoechst plant, as did most of the Farben plants, sent its own representatives to the occupied territories to recruit workers. Among these representatives was Dr. Johann Simon. Simon's task in Italy, in addition to recruiting labor for Hoechst, was to check the factories of the Italian chemical and textile industries to ascertain how many workers could be drafted from these factories and utilized for the German chemical industry (PE 1358). This is corroborative of the statement of Dr. Johann Simon (PE 1360).

(19) LAUTENSCHLAGER was not only a member of the Plant Leaders Conference but also regularly attended the meetings which were called approximately five or six times a year by the chief plant leader, defendant Christian SCHNEIDER. In these meetings all social matters concerning German as well as foreign workers were discussed such as accommodations, disciplinary measures, sickness returns, etc. (PE 394). LAUTENSCHLAGER was present at the meeting of the Enterprise Advisory Council on 11 March 1941. In this meeting there was unanimous agreement that in spite of the many difficulties and in spite of the average inadequacy of the work obtained from foreign and compulsory labor, it was not possible to dispense with them. Satisfaction is expressed generally that cooperation with the authorities and the German Labor Front in this sphere was favorable (PE 1350).

(20) That Hoechst had an eye out for foreign labor is shown as early as 14 July 1941 by the minutes of a meeting of the technical department

chiefs held on that date. It is stated that the promised Italians did not arrive but that there is a chance to obtain approximately 150 Dutchmen from the Reichsautobahn. LAUTENSCHLAGER and JAEHNE were present, and LAUTENSCHLAGER sent a wire to the Gebechem stressing the urgent need for 1000 foreigners for work on, among other things, preliminary explosive materials, GMI (gas masks), war-important pharmaceutical products, etc. (PE 1362).

(21) The minutes of a Main Valley technical management meeting, 24 January 1944 state:

"It is intended that -- at our instigation -- the SS take measures against the foreigners who do not return from their leaves." (PE 1363)

LAUTENSCHLAGER was present at and signed the minutes of this meeting. Minutes of a meeting of 22 May 1944, at which LAUTENSCHLAGER was present, show that workers are arriving only occasionally from France and that Hoechst will send a liaison man to the Department Main et Loire which is responsible for the procurement of laborers for the Hesse-Nassau district. LAUTENSCHLAGER signed the minutes (PE 1364). The evidence shows that Hoechst had contributed to the opinion that it would be necessary to comb the chemical industry in France and Belgium and that the skilled workers thereby becoming available be utilized in the chemical industry (PE 1326). It is proposed in a meeting on 10 July 1944 which was attended by LAUTENSCHLAGER and JAEHNE that an outpost of the labor training camp be established in Hoechst in order to be able to utilize that labor (PE 1365).

(22) An extract of the figures from a TEA chart dated 1 October 1944 shows that as of that date Hoechst had a little over 12,000 workers. Of these approximately 24 per cent were foreigners, 1.4 per cent were prisoners of war and 8.5 per cent were made up of loan workers, forced workers, convicts of the Wehrmacht, concentration camp inmates, etc. It should be noted that the defense has denied that KZ inmates were employed at Hoechst (PEs 1559 and 1560).

(23) Johannes de Bruyn, a Belgian, worked at Hoechst from the middle of 1943 until March 1945. He describes conditions in the workers' camp as inhuman. He also has described the beatings frequently meted out to

the foreign workers by the camp leader and the foreman. Cross examination of affiant de Bruyn was waived (PE 1367).

(24) The evidence indicates that Hoechst reported foreigners who breached their contracts (PE 2055 — this document gives the cases, among others, of the two French workers Bacuzzi and Baillon. It is to be noted that due to an error in translation "Hoechst" has been omitted. The originals filed in evidence with the Secretary General show the employer as "I.G. Farbenindustrie, Hoechst", instead of just "I.G. Farbenindustrie", as appears on the English translation).

(25) That LAUTENSCHLAGER did not isolate himself in Hoechst, but visited the plants in the Main Valley Combine is borne out by the testimony of one of his affiants, Karl Weber, formerly plant manager at Gersthofen. Weber stated that LAUTENSCHLAGER came frequently to Gersthofen (Tr. 11169). (Weber's testimony also indicates that LAUTENSCHLAGER was interested in the retention of the half-Jew, Dr. Heisel, in the Gersthofen plant for the benefit of the war effort (Ibid.))

(26) LAUTENSCHLAGER did not take the stand in his defense, but a number of affidavits were introduced in his behalf. These affidavits in respect to the charge of slave labor are contained in LAUTENSCHLAGER Document Book I. The affiants, with two or three exceptions, are old employees of LAUTENSCHLAGER. These affidavits are in the main character testimonials and also include statements as to his being a man of medicine and science. Somewhat typical of the tenor of any statement on the precise charge of enslavement and maltreatment is the following statement made by Dr. Elizabeth Kuhn, a physician at the Hoechst Works:

"By the way, they (foreign women) all told me that they had a good time at Hoechst and that the food had been adequate." (LAUTENSCHLAGER Exh. 32, our emphasis)

It is felt that no comment is necessary on this and similar statements made by LAUTENSCHLAGER affiants.

(27) Defendant JAEHNE, whose individual responsibility under Count III of the Indictment is discussed separately, testified concerning LAUTENSCHLAGER's affidavit (PE 1358). In reference to LAUTENSCHLAGER's statement therein that prisoners of war and foreign workers were employed



in the manufacture of armament products at Hoechst and other plants of the Main Valley Combine, JAEHNE said;

"Professor LAUTENSCHLAGER in his exaggerated conscientiousness fell victim to the very widespread belief. Hoechst outside of these few smoke screen agents never produced any war material."  
(Tr. 9933).

It is submitted that it is somewhat difficult to understand how JAEHNE would casually pass this whole thing off by attributing LAUTENSCHLAGER's admission to exaggerated conscientiousness. It is likewise submitted that the attitude of exaggerated conscientiousness is more conducive to truth than the attitude of casualness assumed in this connection by JAEHNE.

It is noted that LAUTENSCHLAGER in his affidavit also states that in addition to smoke bombs, preliminary products for the making of explosives were manufactured at Hoechst. LAUTENSCHLAGER also specifically named Griesheim-Autogen as one of the other plants of the Main Valley Combine where prisoners of war were employed in armament production (FE 1358).

#### MEDICAL EXPERIMENTATIONS UPON ENSLAVED PERSONS

(28) The evidence establishing that LAUTENSCHLAGER was a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving medical experiments upon human beings without the subject's consent, is summarized in the Preliminary Memorandum Brief.

(29) The Preliminary Memorandum Brief outlined the evidence introduced in the Prosecution's Case-in-Chief with respect to three major series of criminal experiments:

(a) Those conducted in the Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines;

(b) Those conducted in the Buchenwald concentration camp to determine the efficacy of Farben chemo-therapeutics, acridin "3582", rutenol and methylene blue, in the treatment of typhus;

(c) Those conducted in the Auschwitz concentration camp to determine the efficacy of the Farben chemo-therapeuticum acridin "3582" in the treatment of typhus.

(30) The evidence has established beyond any question of a doubt that with respect to all three series, enslaved persons who were concentration camp inmates were subjected, without their consent, to criminal medical experimentation resulting in bodily harm and death. The evidence also established beyond any reasonable doubt that these experiments were conducted for the purpose of testing the efficacy of Farben products.

(31) With respect to the defendant LAUTENSCHLAGER's participation in these crimes, the Prosecution submits that by virtue of the responsibility of the position he held in the Pharmaceutical Division of I. G. Farben, and by virtue of the information he received concerning the activities, and particularly the testing of Farben's products, that LAUTENSCHLAGER is criminally responsible for the acts of his subordinate I.G. Farben officials who carried out the policies and programs which he initiated and carried out.

(32) In addition to the criminal responsibility of the defendant LAUTENSCHLAGER flowing from the position he held in the Farben Pharmaceutical Division<sup>1</sup> and the knowledge he had of its activities, the Prosecution submits that LAUTENSCHLAGER is specifically chargeable with responsibility for three separate and distinct series of criminal medical experiments. LAUTENSCHLAGER was a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving medical experiments upon human beings without their consent; which experiments were conducted

(a) At the Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines;

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<sup>1</sup> With respect to Behringwerke, Marburg, LAUTENSCHLAGER admits that he was given "complete control of this plant as well as its affiliated serum and vaccine plants . . . and the Lemberg Typhus Institute. While in charge of these departments my exclusive field of activity was the development and production of pharmaceutical preparations, pharmaceutical chemistry, medical serums and vaccines, insecticides." With respect to Hoechst, LAUTENSCHLAGER admits that "I was in sole charge of the Pharmaceutical Department at Hoechst" (PE 307). In his testimony, HOERLEIN emphatically stated that for Behringwerke, Marburg, for the Lemberg Institute, and for Hoechst, in connection with clinical testing of preparations, etc., LAUTENSCHLAGER was solely responsible (Tr. 6391, 6386, 6431 and 6432).

(b) At Buchenwald concentration camp to determine the efficacy of Farben's typhus therapeutica acridin and rutenol;

(c) At Auschwitz concentration camp to determine the efficacy of Farben's typhus therapeutica acridin and rutenol, and B 1034.

(33) Experiments at Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines. Since the submission of the Preliminary Memorandum Brief, additional evidence has been introduced showing that LAUTENSCHLAGER was informed from the very outset that it was contemplated to test certain vaccines on human beings, that Farben representatives urged the inclusion of the Farben product in the test contemplated, and that the testing was to be in the hands of the SS (PEs 1864 and 1807), and that Farben was having difficulty "in having its vaccine recognized as being effective" (Tr. 6440, 6441).

(34) It will be recalled that the minutes of the meeting of 29 December 1941, a copy of which went to LAUTENSCHLAGER, indicated that two basic decisions were made;

(a) That tests would be conducted to determine the comparative efficacy of various typhus vaccines;

(b) That the Lemberg Institute would be built for the production of typhus vaccines.

Just as there was no one in Farben more directly responsible for taking the initiative in having the Farben product included in the comparative tests than the defendant MANN (see Part VI), so also there was no one in I. G. Farben, or outside Farben for that matter, who assumed greater responsibility in connection with the carrying out of both decisions than LAUTENSCHLAGER. LAUTENSCHLAGER admitted that he had "complete control" of the Behringwerke, Marburg plant, which produced the typhus vaccine and that his

"exclusive field of activity was the development and production of pharmaceutical preparations, pharmaceutical chemistry, medical serums and vaccines, insecticides." (PE 307)

Also, LAUTENSCHLAGER admitted (and HORLEIN was quick to confirm) that he had full responsibility for the clinical testing of preparations of Behringwerke, Marburg, and the Lemberg Institute.



(35) In view of the fact that neither of the two decisions made at the 29 December 1941 meeting could therefore be carried out without LAUTENSCHLAGER's knowledge, consent and cooperation, it is hardly necessary to mention that he was represented at the meeting by the chief of his Behringwerke plant and, of course, received a copy of the minutes (PE 1607).

(36) The significance of the meeting of 29 December 1941 is summarized in the Preliminary Memorandum Brief and explained in some detail in Part IV-D of this Brief.

(37) Part IV-D of this Brief, together with the Preliminary Memorandum Brief, establishes beyond a reasonable doubt that the meeting of 29 December 1941 contemplated criminal medical experiments involving artificial infection. That the decision was so understood by the Farben representatives at the meeting and was promptly carried out by the Behringwerke plant seems no longer open to question.

(38) In view of the discussion contained in Part IV-D, it is unnecessary to reiterate here the basic facts as they apply to LAUTENSCHLAGER.

(39) The only point the Prosecution wants to note especially in connection with LAUTENSCHLAGER is that after LAUTENSCHLAGER's Behringwerke is notified in detail concerning the criminal medical experiments (PE 1631), (including the fact that the only deaths which occurred were among those inoculated with the Behring vaccine), and after one of LAUTENSCHLAGER's top assistants, Professor Bieling (then working with the army) was frankly told by Dr. Ding about the artificial infections involved in these experiments, and after Professor Bieling wrote to Dr. Demnitz, LAUTENSCHLAGER's top man in the Behringwerke informing him that Ding's experiments on human beings served no useful purpose (PE 2269), the Behringwerke again sent its vaccine to Dr. Ding at the concentration camp Buchenwald for further experiments (PEs 1631 and 1606).

(40) Experiments at Buchenwald concentration camp to determine the efficacy of Farben's typhus therapeutics, aridin and rotenol. Since the submission of the Preliminary Memorandum Brief, additional evidence has been introduced substantiating and confirming the proof of knowledge and

participation on the part of LAUTENSCHLAGER in the criminal medical experiments conducted at Buchenwald to test the effectiveness of his Hoechst preparations, acridin and rutenol. Although this evidence was in part from the LAUTENSCHLAGER witness Darnitz and is found in part in documents introduced during the LAUTENSCHLAGER defense, it will be treated in IV-D. This is done in order to facilitate reference to material which affects the guilt of HOERLEIN and MANN even though it concerns LAUTENSCHLAGER's Hoechst preparation.

(41) Experiments at concentration camp Auschwitz to determine the efficacy of the Farben chemo-therapeuticum acridin "3582 in the treatment of typhus. Here again reference is made to Part IV-D of this Brief for the discussion of the additional evidence introduced subsequent to the submission of the Preliminary Memorandum Brief. In connection with LAUTENSCHLAGER's personal guilt, the Tribunal's attention is directed to the additional evidence discussed in the individual briefs of MANN (VI-R) and HOERLEIN (VI-F).

#### d. COUNT V - CONSPIRACY

(42) The comments made in the individual brief on the defendant KRAUCH, Part VI-B, sub-section "d. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant LAUTENSCHLAGER.

5. Proposed Findings of Fact with Respect to the Guilt of Carl LAUTENSCHLAGER. The evidence has established beyond a reasonable doubt the guilt of the defendant Carl LAUTENSCHLAGER on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant LAUTENSCHLAGER under each of these Counts is predicated upon the following facts, which have been established by the proof:

#### COUNT I

1. The following activities of LAUTENSCHLAGER, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) LAUTENSCHLAGER's activities as one of the leading officials of Farben including his activities as a member of the Vorstand from 1933 to 1945; as a member of the Technical Committee (TEA)

from 1938 to 1945; as Chief of the Pharmaceutical Department of the Hoechst plant from 1933 to 1945; as Chief of the works Combine Main Valley from 1938 to 1945; and as Plant Leader of the Hoechst plant from 1938 to 1945.

(b) LAUTENSCHLAGER's activities carried on through the instrumentality of Farben and through his other positions, included (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. LAUTENSCHLAGER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. LAUTENSCHLAGER knew this for a number of reasons:

(a) LAUTENSCHLAGER knew that this had been the program of the Nazi party since the early 1920's, and beginning in 1933 it was clear to LAUTENSCHLAGER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in LAUTENSCHLAGER's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by LAUTENSCHLAGER and the timing of such activities, establish that LAUTENSCHLAGER knew he was preparing for aggression.



(d) Specific instances, such as the meetings attended by LAUTENSCHLAGER, at which the aims of the Nazi leaders were expressed, and LAUTENSCHLAGER's own statements on various occasions, are sufficient in and of themselves to establish that LAUTENSCHLAGER had the required state of mind.

(e) LAUTENSCHLAGER's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to LAUTENSCHLAGER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, LAUTENSCHLAGER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant LAUTENSCHLAGER.

(a) As a matter of Law, even if the facts established that LAUTENSCHLAGER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that LAUTENSCHLAGER acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT II

1. The defendant LAUTENSCHLAGER knowingly participated in plans to spoliate, and in spoliating, the chemical industries of occupied countries.

2. LAUTENSCHLAGER bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion the chemical industries throughout Europe.

3. The alleged defense of duress or coercion is not available to the defendant LAUTENSCHLAGER.

(a) As a matter of Law, even if the facts established that LAUTENSCHLAGER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that LAUTENSCHLAGER acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Sections A and C)

1. LAUTENSCHLAGER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. LAUTENSCHLAGER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of LAUTENSCHLAGER were, to LAUTENSCHLAGER's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. LAUTENSCHLAGER continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant LAUTENSCHLAGER.

(a) As a matter of Law, even if the facts established that LAUTENSCHLAGER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that LAUTENSCHLAGER acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section B - Mass Exterminations)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.
2. LAUTENSCHLAGER participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.
3. LAUTENSCHLAGER knew that human beings in concentration camps were being exterminated by gassing.
4. LAUTENSCHLAGER either knew that the afore-mentioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

COUNT III  
(Section B - Medical Experiments)

1. LAUTENSCHLAGER participated in supplying Farben pharmaceuticals and vaccines to the SS for the purpose of having them tested, knowing that the tests would be conducted by medical experimentations upon concentration camp inmates without their consent.
2. LAUTENSCHLAGER took the initiative in getting Farben products tested by the SS through the means of criminal medical experiments.
3. These criminal medical experiments resulted in bodily harm and death to a number of persons.

COUNT V

1. The foregoing activities were engaged in by the defendant LAUTENSCHLAGER in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.



2. the defendant LAUTENSCHLAGER, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support, and thus made themselves parties to the program of conquest which Hitler initiated.

FINN BRIEF, PROSECUTION (English)  
PART II, SECTIONS R-X

1. Charges in the Indictment. The defendant MANN is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation, constituting War Crimes), Count III (Slave Labor, constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to commit Crimes against Peace). The defendant took the stand in his own behalf (Tr. 10278, et seq.).

2. General Nature of the Evidence Supporting These Charges.

MANN bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, MANN bears a major responsibility for preparing Germany for aggression and for participation in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant MANN are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this final brief (including a Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant MANN sets forth certain highlights in the activities of the defendant MANN and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should be considered, however, in the light of what has been said in the whole of this final brief together with the Preliminary Memorandum Brief.





3. MANN's Positions from 1933 to 1945. The positions which MANN held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in PEs 308 and 309. The following positions held by MANN during these years are of special significance:

(a) MANN was a member of the Vorstand from 1933 to 1945; a full member since 1934.

(b) MANN was an active member of the Commercial Committee from 1937 to 1945.

(c) From 1933 to 1945 MANN was Chief of the Sales Combine Pharmaceuticals and Plant Protective Agents (Bayer Sales Combine), a sales organization covering 75 countries.

(d) From 1936 to 1945 MANN was a member of the Pharmaceutical Main Committee.

(e) MANN was also Chairman of the Commercial East Asia Committee from 1942-1945, and a member of the East Asia Committee from 1935-1945.

(f) In 1943 MANN became Chairman of the Colonial Economy Committee of the Reich Group Industry and also a member of the Greater Advisory Council of the Reich Group Industry.

(g) Since 1933 MANN was a member of the Advertising Council for German Economy and in 1938 he became a member of the Committee for General Affairs and the Committee for Foreign Propaganda in the Advertising Council for German Economy.

(h) From 1938 to 1945, MANN was Chairman of the Verwaltungsrat of "Degesch", Deutsche Gesellschaft fuer Schaedlingsbekaeupfung G.m.b.H., Frankfurt.

(i) In 1932 he became Deputy Chairman of the Aufsichtsrat of the Behringwerke A.G., Marburg and in 1933, Deputy Chairman of Aufsichtsrat of the Chemisch-Pharmaceutische A.G., Homburg, Frankfurt. He remained in both these positions until the collapse in 1945.

(j) On December 31, 1931, MANN became a member of the NSDAP and in 1934 a Sturmfuehrer (Lieutenant) of the SA Reitersturm.

4. Certain Specific Activities of MANN During the Period 1933 to 1945.

MANN was a leading Vorstand member of Farben throughout this period. In order to place his individual conduct in fuller context with the history of Farben and the progression of events in Germany during this entire period, the Tribunal is requested to frequently cross-reference its study of this brief with Part VI, "C - Hermann SCHMITZ", and with Part VI, "D - Georg von SCHNITZLER", excepting, of course, the evidence under "b. COUNT I - von SCHNITZLER's Admissions", which under the ruling of the Court are not admissible as to other defendants since von SCHNITZLER did not take the stand. MANN's conduct cannot be reasonably disassociated from the conduct of the Vorstand generally, and more particularly from the activities of the two leading commercial Vorstand leaders, SCHMITZ and von SCHNITZLER. Since he was closely associated with the defendants HOERLEIN and KUEHNE (for example at the Leverkusen directors conferences), reference should also be made frequently to Part VI, "F - HOERLEIN" and "P - KUEHNE".

a. COUNT I - CRIMES AGAINST THE PEACE

(1) Although MANN particularly specialized in the field of Pharmaceuticals and in the direction of the world wide Bayer organizations, still as a member of the Vorstand of Farben during the whole period from 1933 to 1945, he was informed of and authorized, approved, or ratified all major activities of Farben during this period.

(2) MANN joined the Nazi party in 1931 at the time when, as described by a witness for MANN, the "Nazi Party had nothing else but its personal debts and a program" (Tr. 10313). Beginning in 1933, with its election fund contribution to the Nazi Party of 400,000 Reichsmarks (PE 56 and PE 55) Farben made contributions through the office of the Central Committee to the Nazi Party and Nazi Party organizations amounting to 40,000,000 Reichsmarks (PEs 78, 79, and 80). MANN was a member of

the Working Committee and participated in meetings at which these contributions as approved by the Central Committee were reported upon (See PEs 78 and 79, supra). Immediately after the seizure of power by the Nazis, MANN put into motion the tremendous resources of the Bayer Sales Combine (he testified that it had representatives and agents in 75 countries of the world (Tr. 10293), to overcome the hostility evoked by the outrageous acts of the Nazi regime. In March of 1933, he sent a circular letter to all of his representatives abroad in which he requested the representatives to "visit leading personalities of their country and the editors of influential papers" and in other ways make known that the National Revolution in Germany was a victory for the entire civilized world and that "there is not a true word in all the lies and atrocity stories (concerning the Nazi regime) being disseminated abroad" (MANN Exh. 141, p. 41). On April 13, 1933, Siering, the Bayer representative in Chile, informed MANN concerning the steps he had taken in response to MANN's request including the printing of MANN's letter which was delivered to all the daily papers, leading personalities, deputies, doctors, dentists, chemists, and other groups in the country. In addition, the letter was sent to the 17 consulates and vice-consulates in the country for redistribution to important officials (PE 780). In Chile alone 4,200 copies of the letter were circulated and it was published in at least five newspapers (page 85 supra). The letter which was so widely circulated was reported as a statement of "the Management of Bayer of I.G. Farben" who as "Germans have the obligation to declare solemnly that all the news which came out abroad concerning the mistreatment of politicians of the opposition and of Jews are absolutely without any basis .... The personal security of every one in Germany is guaranteed in every respect and no iniquity is committed against anyone, neither against political adversaries nor against the Jews" (PE 2091). In July 1933 MANN received a copy of the minutes of a meeting in Hoechst on industrial air raid precautions at which it was decided:



"In view of the fact that in case of war I.G. Farben will have to guarantee a possibly even increased production, the statements of the highest authority indicate the necessity for I.G. to start carrying out industrial air raid precaution measures energetically. The people present cannot escape the conviction that in future the government will consider war industry workers as active soldiers in case of war" (PE 172; Tr. 460, 9912, 9913).

In August of 1933, the Bayer Management in Leverkusen informed its representatives in Uruguay that it thoroughly approved the action of the representative in placing its mailing list at the disposal of the German legation for distribution of a new propaganda newspaper for Germany (PE 781). In October of 1933 MANN sent a circular letter to Bayer agents abroad in which they were asked to give their support to the Foreign Ortsgruppen (Country leaders) of the Nazi Party Organization abroad (PE 2092).

(3) Also in October 1933, MANN together with the defendants SCHWITZLER and GATTINEAU were appointed to the Publicity Board of German Economy of the Propaganda Ministry (PE 62). (The organization has also been translated as the "Advertising Council of the German Economy"). Like other agencies of Goebbels Ministry which were set up to control and influence the press, radio, films, publishing firms, etc., this was another instrument of the Nazi Government to unite the nation in support of their policies. (IMT page 182). Goebbels who addressed the meeting stated "the Publicity Board is an educational instrument with which we want to convince the German people of the correctness and of the aims of the German trade" (PE 62, supra). The defendants MANN and GATTINEAU deny that the Publicity Board had any political function or that the Farben representatives on the Board were of any significance. One of MANN's affiants stated concerning the Board:

"The German Propaganda Ministry had the aim to place the German economic propaganda also within the service of its political propaganda. It had created the German Werberat (Publicity Committee) for the supervision of the economic propaganda. The latter made efforts to fulfill the assigned task, among others, by compiling lists of foreign newspapers which were to be favored regarding the advertisement of German enterprises, by issuing general directives for the advertising, and by creating the Gesellschaft fuer Auslandswerbung (Society for Advertising Abroad). The task of this Society was to initiate German foreign advertising, especially however, to transmit the advertisements of German economic enterprises to foreign newspapers" (MANN Exh. 16).

Another MANN affiant who was manager of the Board and deputy chairman stated that GATTINEAU, MANN and von SCHNITZLER were appointed to the Board very early because special value was placed on their cooperation on account of their professional knowledge. He also stated that von SCHNITZLER became a member of the Board as chairman of the Committee for Promotion of Fairs and Exhibitions of the Reichs Gruppe Industry and MANN because he was an expert in the field of advertising of pharmaceuticals (MANN Exh. 12).

(4) 1933 was the year, as found by the International Military Tribunal, when Hitler after ruthlessly eliminating opposition passed the Enabling Act giving him the power to deviate from the constitution; when he passed a law declaring the Nazi Party the only political party and making the maintenance or formation of any other political party a crime; when the persecution of the Jews became official state policy and "non-Aryans" and political opponents were removed from civil service and the boycott against Jewish enterprises was instituted; when judges were removed from the bench for political reasons or for racial "impurity" and people were arrested by the SS and detained in concentration camps; when steps were taken against the church and the old leaders of the trade unions were "eliminated" in methods ranging from assault and battery to murder; and when the Hitler Youth was organized on strict military lines with the Wehrmacht cooperating in providing preliminary training for the Reich youth (IMT Judgment, Section C, The Consolidation of Power, pp 178 through 183). In December 1933, the end of the year thus described, MANN sent a circular letter to all of the Fayer agents and representatives abroad in which he hailed the achievements of the first year of Nazi power, which he described as the "miracle of the birth of the German nation". MANN asserted, after stating that "the government stepped in and purged the country with an iron hand", that "peace was restored to the people and they could go about their affairs without fear for life and property". MANN also reported the "peaceful intentions of the German people" although he also noted that "Germany had been a plaything in the hands

of the signatories of the Treaty of Versailles". MANN proclaimed that under Hitler's leadership Germany would assume its rightful role. (PE 782). Like his March 1933 circular letter, MANN urged that publicity be given this letter which he stated contained the "actual conditions" as they prevail in Germany. MANN hoped that these "objective facts" would provide the representatives with "important data with which to assist us in our struggle for the German conception of law".

(5) In January 1934 MANN approved the transmission to Brazil of propaganda mail including the text of Hitler's speech to the Reichstag about the German people's readiness for peace (PE 783). Similar literature was sent to Brussels where it was confiscated by the customs officials and turned over to the public prosecutor (PE 784). In that same month the Bayer agency in Rio de Janeiro, Brazil, committed itself to support a propaganda project established in "close cooperation with the German Embassy, the local chapter of the NSDAP and the German Chamber of Commerce". The project was approved by the accounting and legal departments of Bayer (PE 787). In February of 1934, MANN issued another circular letter to his representatives abroad requesting that advertisements in newspapers hostile to the Nazi Regime were to be stopped completely (PE 785). Two weeks later MANN demanded that representatives and agents abroad refrain from any political activity against the German Reich and are to be pledged accordingly (PE 786). In June 1935 the management of Bayer wrote to the Central Committee recommending financial support to an agency in Argentina for the placing of pro-German articles in the Argentinian press. The letter states "our management is convinced of the necessity of supporting those efforts" (PE 788, p.3). GATTINEAU in his function as chief of the Political Economy Department of Berlin Northwest 7 (WIPO) discussed the matter with the German Press Attache for Argentina and an official in the Reich Ministry of Propaganda. GATTINEAU pointed out that the purpose of this project was to gain "additional influence on the Argentinian Press in a way that cannot be recognized by the Argentinians" and that "the office representing I.G. was a very strong point for the work



there" (supra p. 4). The organization was similar to one in Brazil in which Dr. Staritz of Farben's Alianca was actively engaged (supra p.3). That same month MANN attended a meeting of Farben's Working Committee at which the approval of the Central Committee to a contribution to the Adolf Hitler Fund was announced (PE 78).

(6) In September of 1935, MANN received a confidential letter sent by ter MEER announcing the creation of the Vermittlungsstelle W to "centralize the work dealing with all questions of military economy, military policy and of a military technical nature in connection with the planned development of the military economy" (PE 139). In January 1936 MANN received a confidential announcement signed by KRAUCH concerning the establishment of a Section A within Vermittlungsstelle W to act as the head of the special counter intelligence agents who had been appointed in certain Farben plants. It was pointed out that "In view of the future war economy development, Section A is at the disposal of all I.G. plants and I.G. agencies for any information in counter intelligence and security matters ...." (PE 145). MANN testified on direct examination that he attended meetings of the Pharmaceutical Main Conference "which was set up to secure a good cooperation between the laboratories, the production firms, and the sales combines" (Tr. 10296). He also testified that by reason of his participation in Vorstand meetings he had "insight into the other production fields of Farben" (Tr. 10339).

(7) In January of 1937, MANN participated in meetings at which contributions to schools and cultural institutions and to the NSDAP abroad were reported (PE 797). This was shortly after ILGNER had returned from his trip to South America and had made his proposals for support of German institutions abroad. Correspondence concerning one of these contributions indicate that it was made to the Nazi Party Leader in Peru pursuant to an agreement between ILGNER and the Party Leader for promotion of German cultural institutions and the German school administration in Peru. The Bayer agency in Peru and Farben's dyestuffs sales agency were delegated to make these payments (PE 796).

In April 1937, the Central Committee was informed that the Bayer organization in Mexico together with Farben's dyestuff agency in Mexico contributed to the building of a German school house in Mexico (PE 798). In June 1937 MANN attended a Working Committee meeting at which contributions to schools in Riga and Kobi and an Adolf Hitler Fund contribution of 849,000 Reichsmarks were reported (PE 79). MANN asserts that Bayer contributions to the Nazi party abroad and its organizations abroad were small. He relies on the total of contributions appearing from PE 821, to establish the extent of contributions made by the Bayer Sales Combine abroad. This exhibit only shows contributions of amounts less than 3000 Reichsmarks which were made from 1937 on. Contributions in excess of that amount although paid by Bayer agents were made through the Central Committee of Farben and were not reported on the records of contributions appearing in PE 821. (PE 341, also PE 796, for contributions paid by Bayer agency in Peru in excess of 3000 Reichsmarks and note that it was not recorded in PE 821; see also PE 797, which is likewise not recorded in PE 821).

(8) In August of 1937, MANN attended the first meeting of the reconstituted Commercial Committee as a member. Among other subjects, HIGHER's Latin American report, his export promotion memorandum, and the appointment of Verbindungsmaenner were discussed at this meeting. At this same meeting, MANN reported on a request by a United States Treasury Agent. The report sheds an interesting light on the assertions of the defendants concerning their relation to the Nazi government, particularly on the question of prohibitions with regard to the transmittal of information abroad. It was decided that, in view of the fact there were no legal regulations in Germany categorically prohibiting the giving of information, the matter should be settled amicably without giving the agent any details. After further discussion concerning the situation, the minutes state "that considering our present economic situation with regard to America, it is deemed inappropriate at the present time to suggest to the German authorities that a general decree prohibiting information should be issued" (PE 362). MANN also attended

the September 10, 1937, meeting of the Commercial Committee at which the need for collaboration with WIPO was discussed in view of the problems accumulating in connection with the Four Year Plan, Rearmament, export, etc., and at which the resolution was passed that all Farben employees going abroad must represent National Socialistic Germany and cooperate with the local and regional groups of the Nazi Party abroad. The "M" question was also discussed at this meeting (PE 363). MANN was present at most of the subsequent Commercial Committee meetings at which this question was discussed, (PE 250), including the March 11, 1938, meeting which took place under the excitement of the Anschluss and the discussion of the possible "short thrust" into Czechoslovakia and at which the Mobilization question took on highly significant features (PE 893 and PE 2014).

(9) In February of 1938, at a meeting of the Bayer directors at which MANN was chairman, MANN requested that the heads of the offices abroad regard it as their duty to collaborate with the functionaries of the Nazi Party, the DAF, etc., and "that orders to that effect be issued again to the leading German gentlemen, so that there be no misunderstanding concerning their execution". He also stated that the management of the Bayer offices abroad would be in the hands of Germans and when that was not possible a German was to be delegated to keep up relations with the branch offices of the Nazi Party abroad and to put forth great effort in behalf of the National Socialist attitude. He further ordered that advertising in the anti-German newspapers abroad was to be avoided at all cost and that economic considerations had to be subordinated to the highest political aspects (PE 803). A week after this meeting MANN sent a letter to all his representatives abroad one of which was a letter to Heinrich Homan, his agent in Argentina (PE 129; Tr. 10353, shows that MANN sent this letter to all of his agents abroad). In these letters MANN requested that the Bayer agent should "again and again make all endeavors to support not only the Government agencies, but also official party agencies in their work abroad". MANN stated "this does not only mean that each individual



should develop a positive mental attitude towards the present regime but he should also as far as possible become a member of the party organization". MANH further stated that "the Bayer organization as well as its head were to be placed fully at the disposal of the German cause". During his direct examination MANH repeatedly asserted that neither he nor his directors made the slightest attempt to influence the party membership of his employees at home and abroad (Tr. 10306, 10323). He also stated that he never put Bayer's large "advertising machine" in the service of National Socialist propaganda (Tr. 10348). It is not clear what other measures the defendant believes he could have taken in addition to the ones he did to achieve the purpose of urging and coercing his employees to support the Nazi Party and its activities abroad. Many of the leading men of the Farben sales organizations abroad held leading parts in the Foreign Organization of the NSDAP or in the German Clubs, Chambers of Commerce or in similar organizations (PE 772, p.5). Orders of the nature of those made by the defendant MANH described herein and of 10 September 1937 resolution passed by the Commercial Committee and similar activities of responsible Farben leaders were clearly responsible for marshalling the influence of these men and the Farben organization abroad in support of the Nazi Program abroad. (See PE 895, for the aid given to the Axis' wars of aggression through German Control of the Argentinian Press, German institutions and cultural organization in Argentina, particularly the support given by Farben's leading men and agencies.)

(10) Heinrich Homan, agent in Argentina of the Bayer Agency known as Quimica Bayer, to whom MANH's letter (PE 129, supra) was addressed, was Farben's Verbindungsman in Argentina and chairman of the German Chamber of Commerce in Argentina. A report from the Embassy of the United States to the Ministry of the Foreign Affairs and Worship of the Argentine Republic made in 1934 concerning Heinrich Homan stated that the German Chamber of Commerce of which he was president was "known to have been used for German propaganda purposes, for espionage activities and for the acquisition of chemicals and other vital products for shipment to Germany via Spanish ships". The report further states

that Homan was one of the sponsors of the Nazi Party organ "Der Trommler"; that he was active in Nazi propaganda activities in South America; that he was involved in the smuggling of strategic materials from Argentina to Germany; and that he was known to have been connected with German espionage agents who operated a clandestine radio transmitter in Chile.. (PE 806; see also PEs 813, 810, and Homan's reports in D.B. 49 for further evidence of his activities).

(11) A report by the Federal police concerning German espionage activities in Argentina to the United States Secretary of State deals with Heinrich Harmeyer, advertising chief of Quimica Bayer and assistant to Homan. He is being described as a known espionage agent who collaborated with the first class German espionage agent Becker in organizing an espionage center which received reports later transmitted to Germany. Harmeyer procured the services of another Bayer employee, Carlos Maria Heguy to act as front for an organization which procured and transmitted espionage reports (PE 914). Another Bayer employee Kurt Schob who was employed in Columbia was described in a report by the American Vice-Consul in Columbia to the United States Secretary of State as a traveling salesman for Casa Bayer who was engaged in spreading Nazi propaganda among his wide circle of business contacts. After describing Schob's activities and Nazi connections the report states "By virtue of his position as representative of German drug and chemical products, and a house (Bayer) which is notoriously known as a fount of propaganda for the Axis, Schob is in a position to do considerable harm to the Allied cause" (PE 929). In 1943 the minutes of the Bayer Directors meeting presided over by MANN noted that Quimica Bayer in Brazil was liquidated "on account of espionage" (PE 827).

(12) MANN played a leading role in procuring Farken's cooperation with the intelligence service of the OKW. In 1938 MANN agreed to transmit reports from his agents abroad to the Abwehr (the intelligence office of the OKW; PE 916). In April 1940 MANN urged that the requests of the Abwehr to place Abwehr agents in its foreign organizations abroad

be handled centrally (PE 929). In May 1940 it was decided at a Commercial Committee meeting that MANN was to take care of a "special case" (a special order by the intelligence service of the OKW) as fast as possible in accordance with the wishes expressed (PE 931, p.7). In July of 1941, MANN was present at a Commercial Committee meeting at which the defendant von der HEYDE reported concerning a meeting in Frankfurt, in May 1941, on the question of Farben's cooperation with the intelligence department of the OKW in procuring intelligence from abroad. The meeting in Frankfurt proposed the following measures: Abwehr agents of Farben were to report to the Abwehr office of the OKW the Farben representatives who were going abroad, particularly those who were suitable to carry out missions in the field of foreign economic espionage. Farben representatives returning from abroad and Farben visitors from abroad were to make oral reports to the Abwehr office to insure secrecy. Farben's Bureau A should be informed of confidential agents of the OKW Abwehr appointed from among Farben employees abroad. Reports from abroad were to be transmitted to the OKW Abwehr. This included, among others, technical reports which were received by Farben in the course of continuous exchange of experience with a foreign firm, and reports of Farben's technical men regarding inspections or construction of technical installations abroad. Farben was to continue to aid the intelligence department of the OKW in camouflaging travels of their agents abroad (PE 1904). The Commercial Committee attended by MANN approved these measures (PE 376).

#### The War Years

(13) In addition to activities above occurring after September 1939 or which continued after 1939, MANN was an active Vorstand member in supporting the waging of successive aggressive wars. During the war years MANN participated in the New Order plans for Europe (PE 818). Plans for the Pharmaceutical Industry urged "the necessity of organizing the whole pharmaceutical industry in Greater Europe under the leadership of the German Pharmaceutical Industry. (PE 1051, p.40). The discussion of MANN's apolitical activities in Part II of the



Preliminary Memorandum Brief indicates the extent to which Mann put the New Order plans into effect; see also this brief Part III-D, supra. On November 4, 1941, MANN reported to the Commercial Committee concerning offices appointed for the Economic Administration of the East which according to MANN "have not as yet definite competence". It is decided that Chemie-Ost G.m.b.H. shall be founded. It was also decided to set up in Berlin a Liaison office for the East with MANN at its head in order to work out as quickly and as intensively as possible the tasks which arise for I.G. in its new sphere of work in the occupied territories of the East (PE 1564; see also PE 1249).

(14) The Bayer agencies abroad provided the German agencies and the Nazi Party organization abroad with foreign exchange essential to their espionage, propaganda and other activities (PEs 822, 825, 826). Some of these payments were made in violation of the foreign exchange laws of the countries involved. In 1943 Quimica Bayer in Rio de Janeiro was fined 1,146,250 Reichsmarks on account of illegal payments to the German Embassy (PE 827, p.4; see also PE 838). In discussing this transaction during his direct examination, MANN stated that the "fine because of illegal commercial machination was in reality a fine because of infractions of Argentine regulations about foreign exchange control" and since the Reichsbank assumed responsibility, "it is quite clear we did not commit any illegal act" (Tr. 10356, 10357). This comment is typical of the explanations made by the defendant of the evidence introduced against him. See PE 767 for evidence of foreign exchange made available by Farben for German agencies abroad from 1933 to 1939.

b. COUNT II - PLUNDER AND SPOILIATION

(15) MANN was a member of a number of committees of Farben and of official or semi-official organizations which concerned themselves constantly with Germany's spoliative program in occupied countries. He was a member of the Commercial Committee from 1937 to 1945; chairman of the Commercial Asia Committee after 1942; member of the East Asia Committee from 1935 onwards, etc. MANN reported to his Vorstand and other colleagues concerning what he learned in his various functions. How thoroughly the local directorates of the various Work Combines discussed and investigated spoliative possibilities and Germany's spoliative policy, is shown by the minutes of the directors conference at Leverkusen on 28 April 1942. The minutes (PE 1371) state:

"Mr. Mann points out that the Reich-Commissariat OST in connection with the Ministry for the East considers it as important that German technicians, especially on the part of the chemical industry too, should visit the factories in the occupied territories with a view toward practical exploitation." (Ibid) (Our emphasis).

To expedite this defendant MANN proposed to prepare a German-Russian technical dictionary using as an example the German-Polish dictionary which Leverkusen had already developed. Apart from the activities of the Commercial Committee in which MANN participated to the full, and which were discussed in other portions of this brief, it was particularly a forum for considering and thoroughly discussing Farben's new "participations" once Germany had embarked on its policy of forceful expansion (PEs 1069, 1622, 1623; extracts from the minutes of Commercial Committee meetings). Though officially it had no authority to make decisions, the Vorstand, in the words of defendant Krauch, "usually acted upon their recommendations" (PE 338). Defendant MANN regularly attended the meetings of the Commercial Committee and the Vorstand, and was thereby continually kept advised and always approved of Farben's spoliative activities. Some illustrations follow.

Norway.

(16) MANN attended the Commercial Committee meetings on Norway where Farben's plans in Norway were discussed in all detail; particularly

the meetings of 18 March 1941 and 8 July 1942 (PE 1623; see also PE 1205).

Russia.

(17) MANN's part in the large-scale spoliation planned for Russia was not confined to attending meetings and passing resolutions there. He was appointed head of the Liaison Office East in 1942 (PE 1564). TERHAAR was directly responsible to him. He received the notorious Situation Report Russia at the end of December 1941 (PE 1175) where the program of the Nazi government against Russia, particularly the ruthless stripping of Russian industrial cities of the South and the shipment of their usable equipment to Germany, was outlined. At the same time, the report stressed:

"This does not mean that big firms like Farben will be excluded from participation in the reconstruction in the East".

The report seemed so important to MANN that he caused it to be circularized among all members of the Farben Vorstand and the Commercial Committee (PE 1175). See also PEs 1190, 1564.

France (Francolor).

(18) MANN personally participated and played an active part in preparing the Francolor spoliation. On 28/29 June 1940, he attended the Commercial Committee meeting where the preparation of the New Order report was the main point of the agenda (PE 818). He was the leader of the Farben delegation which made a round-trip to the Nazi authorities in Wiesbaden, Paris and Brussels from 29 August to 5 September 1940 (PE 1241) where Farben's spoliative intentions in France are shown beyond any reasonable doubt. Apart from his leading share in the Rhone-Poulenc spoliation (see infra), he also participated in the detailed discussions concerning the French dyestuff factories. He also attended dinners in Paris with Dr. KOLB and Dr. MICHEL on 28 and 29 October 1940 where

"the necessity for a German majority participation in production was further discussed" and "understanding was expressed for this demand". (PE 1886, p.3, last paragraph).

See also PE 1622 showing MANN's participation in subsequent Commercial



France (Rhône-Poulenc).

(19) MANN's foremost spoliative activity is connected with the plunder of the French firm Rhône-Poulenc. He had already worked on the pharmaceutical "Sperto" of the New Order (PE 378, p.7a) by which the foundation was laid for the later plunder. This case of spoliation is so closely connected with MANN's person that it could be called "Case MANN" rather than the Rhône-Poulenc case. Both planning and results have been more fully discussed in our Preliminary Memorandum Brief, Part II, Nos. 33 and 34, and in this brief, Part III - D, supra. The fact that MANN is the master-mind behind this case of plunder so clearly appears from these briefs and the evidence referred to therein that, in weighing MANN's individual responsibility, we can dispense with any further comment on the facts. His case, however, is an outstanding example of the way in which these defendants have been continually trying to distort the facts - up to the moment when they were faced with documents contradicting their statements. Sometimes even thereafter, by incomplete quotations therefrom or outright misrepresentation of their contents, they would stick to their version. We have singled out the case of MANN to show by a few examples how far the utter disregard of the truth has gone, and how one contradiction follows the other, often three or four in a row. These examples will refer to MANN's statements

- A. towards the Nazi government, in order to get its support in subjugating Rhône-Poulenc;
- B. towards Rhône-Poulenc itself;
- C. towards the prosecution;
- D. towards the Tribunal.

In all quotations to come the underscorings are ours.

A. MANN misinforming the Nazi government.

(20) When first planning to use the French defeat for his purposes, MANN was confronted with a certain reluctance on the side of the Nazi government to procure for Bayer a participation in Rhône-Poulenc (PEs

1239, 2094). In order to win over the Nazi agencies, MANN pictured the French pharmaceutical industry, and particularly Rhone-Poulenc, in darkest colors. That in attacking Rhone-Poulenc he was acting against both the objective facts and his own conviction, is shown by the following comparison of his statements:

MANN's statement to Mulert  
(RWM) on 1 October 1940:

" Mr. MANN expressed his personal opinion .. as follows: It was an indubitable fact that the entire pharmaceutical industry in France had possessed no ideas of its own either before or after the World War, and had battened on the inventions and discoveries of the German pharmaceutical industry during the whole term of its existence. .. He must admit, however, that the French had displayed a most admirable business instinct for quality in their choice of products to imitate."

(PE 2094, p.2).

\*)

MANN's statement of  
31 March 1947:

" Besides this, and above all, as we had always recognized, the national pharmaceutical industry in France had its own standards which were very high in the field of both science and technique, and this guaranteed it in any case a far-reaching control of the home market."

(Pros.Exh. 2093, p.2).

MANN's interrogation of:  
28 March 1947:

" ... Rhone-Poulenc itself showed a very high level of scientific performance ..."

(PE 2096, p.9).

(21) The same distortion of facts towards the German authorities appears from a comparison of Rhone-Poulenc's letter of 5 February 1934 (MANN Exh.182) with Farben's report to the Reich Ministry of Justice dated 4 November 1940 (PE 1267, particularly Part IV, pp. 12-14). MANN's right-hand man in his Leverkusen office, Werner SCHULTZ, felt himself at the time that in said report by Bayer to the Nazi authorities the "infringements of Rhone-Poulenc .. are rather too sharply stressed" and that, therefore, it could not be submitted to Rhone-Poulenc (MANN Exh.186).

(22) On the strength of these examples it sounds almost ironical if MANN now emphasizes that, when World War II started, the relations between Bayer and Rhone-Poulenc "were extremely cordial" (PE 1263, p.1), and if he then says:

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\*) Significantly, MANN submitted just an excerpt from this document (his Exh.202), the above part being omitted. Note also his comment, Tr. 10412.

"It is, however, quite possible that German government offices which were not correctly informed (sic!) of the relations between Rhone-Poulenc and I.G.Farben, might have reached the conclusion that I had been helped, in my negotiations, through means and methods which, in view of the situation at that time, were possible. I myself have never thought to use such means and methods."  
(PE 1283, p.1).

#### B. MANN misinforming Rhone-Poulenc.

(23) From the outset, MANN represented to Rhone-Poulenc that, in dealing with them, he was following instructions of the Nazi government while, in fact, he had none.

Farben's minutes, 7 December 1940:

"Mr. MANN opened the discussions (with Rhone-Poulenc) ... by stating that he was conducting these negotiations on behalf of and with the approval of the German authorities ...".

(PE 1269, p.1, first paragraph).

Farben's minutes, 7 December 1940:

"Mr. MANN announced... that he must return his assignment to the government as a failure; and he hinted that the French side might later on regret its neglect of using the opportunity afforded by our present willingness to come to terms."

(PE 1269, p.2, first paragraph).

MANN's statement of 31 March 1947:

"I said I could not avoid the instructions of the German authorities as they stood ...".

(PE 2093, p.2).

See also PE 2093, p.8, and MANN Exh. 212, Art. 11.

MANN on direct examination,  
2 April 1948:

"I had no directive from the government referring to the Rhone-Poulenc case. I had no order from the government."

(Tr. 10421; compare Tr.10598).

MANN on direct examination,  
2 April 1948:

"I never asserted that I had come on order of the government."

(Tr. 10426).

MANN on direct examination,  
2 April 1948:

"I was not acting as a representative of the then victorious German power but as a private business man."

(Tr. 10413).

(24) MANN also represented to Rhone-Poulenc that the German government intended stringent measures against the French pharmaceutical industry including Rhone-Poulenc which, as a matter of fact, Bayer himself was trying to provoke.

MANN's memo for Faure-Boulieu of 5 October 1940:

"It must be made clear to Rhone-Poulenc that, in future, patent protection for certain processes will also be introduced

From Farben's New Order, (pharmaceutical part), 3 August 1940:

"All trade marks which were seized during the World War, and which, after the war, were treated as free trade marks because of our



in France for pharmaceutical products. ... It may also be expected that a retroactive ruling will follow in the peace agreement, providing a certain amount of indemnifications for these German firms who had been adversely affected by the French imitations. Our firm has been particularly affected by Rhone-Poulenc's procedure.

There will also ensue a fundamental rehabilitation of all trademark rights of German pharmaceutical firms in France and colonies. In this connection the re-transfer of the trademark Aspirin to I.G. is foreseen.

The expected new future regulations mentioned (above) refer to intended official measures to be taken by the German government. The consequences should make it desirable for the firm Rhone-Poulenc to come to an arrangement with I.G. (Bayer)."

(Mann Exh. 203, Nos. 4-5).

inability to protect them through legal channels, and which, thus, became inaccessible to us, must be restored to the owners and registered and protected with retroactive effect."

(PE 1251, p.39).

From Farben's letter to the Department of Justice of 4 November 1940:

" Since the German pharmaceutical industry has, for a long time, suffered ... heavy losses caused by ... Art. III, Par. 1, of the French patent law, the undersigned ask you to treat this request as urgent, and to initiate the steps which must, in consequence, be taken against the competent French authorities immediately ..... - if necessary, even before the final peace treaty."

(PE 1267, p.1, third paragraph).

MANN's personal statement to Dr. MULERT, RWM, of 11 November 1940:

" Consul General MANN stated once more that the creation of a corresponding patent protection in France for pharmaceutical products was one of the most urgent problems, and must, without doubt, be tackled immediately. This was the more important since, in the course of time, the demands which Germany would make of France, would decrease rather than increase. He requested Ministerialdirigent MULERT to take up this matter energetically as soon as possible."

(PE 1268, p.3).

The above misrepresentations are noteworthy not only because they show MANN's utter lack of veracity. They are crucial in this case since we know from contemporaneous documents that MANN's reference to the Nazi government and the steps allegedly planned by it were instrumental in procuring Rhone-Poulenc's signature under the license agreement. (PEs 1274, 2166).

(25) Bayer's alleged claims:

From the preamble of the  
license agreement of  
30 December 1940:

" Whereas I.G. Farben considers  
the trade mark Aspirin to be  
wholly its property . . . ,  
and the company (I.G.), more-  
over, considers that the  
exploitation of the products  
discovered by the companies  
composing I.G., no matter  
how far these discoveries  
date back, entitles the  
company (I.G. Farben) to long-  
term participation in the  
proceeds of such exploitat-  
ion . . . "

(PE 1271).

MANN's affidavit of  
21 April 1947:

" As regards the name Aspirin in  
particular, it was likewise not  
protected in France nor could it  
be protected. Everyone in France  
had the right to use the name  
Aspirin and to sell Aspirin. . .  
Rhône-Poulenc formerly held the  
view - which was perfectly  
justifiable as the law expressly  
provided for it - that it had the  
right to produce and sell in  
France the products which were  
manufactured in Germany and other  
countries under patent protection.  
There is, thus, no question of  
any infringements by the French  
in general or by Rhône-Poulenc."

(PE 1283, p. 1-2).

(26) MANN also deceived Rhône-Poulenc in as vital a matter as  
Farben's share in Thoreplix (details infra). His Exhibits 271 and 272  
show that, in agreement with Bayer, Faure-Besaulieu made believe Rhône-  
Poulenc that the 1 million French Francs is

" the price which will have to be spent by me  
(Faure-Besaulieu) when acquiring the said shares".  
(Mann Exh. 271, as corrected, Tr. p. 10583).

In fact, it had been agreed upon between Bayer and Faure-Besaulieu that  
Bayer was to pay, and actually did pay, this one million Francs (PE 1283,  
p. 4).

C. MANN giving misinformation after 1945.

(27) MANN's intentions.

MANN's affidavit of 21 April 1947:

KUGLER's letter to TERHAAR of  
12 September 1940:

" I never had any intention of  
acquiring the controlling in-  
terest in a French firm, especially  
the controlling interest in  
Rhône-Poulenc."

(PE 1283, No. 5)

" I told Herr von SCHNITZER  
about Generalkonsul MANN's  
intention of working towards  
a 51% capital participation  
in connection with the re-  
organization of our relations  
with Rhône-Poulenc."

MANN's interrogation of 28 March 1947: (PE 1242).

" Q. The Reich Ministry of Econ-  
omics wished the majority to be  
in German hands, and you were  
against it?  
A. I was definitely against it,  
and always stressed the fact at  
negotiations with German  
agencies, and pointed out how  
unsuitable such a settlement was

in view of the good terms we had been on with Rhone-Poulenc hitherto."

(PE 2095, p.11).

(28) Insistence on participation in Rhone-Poulenc's capital.

MANU's affidavit of 21 April 1947:

" Only once in the early stages had I raised the question of I.G. Farben's participation in Rhone-Poulenc, but I immediately dropped the idea when Messrs. Bo and Grillet of Rhone-Poulenc rejected it."

(PE 1283, No.5).

Minutes of Vorstand meeting, 12 December 1940:

" The Pharma Sarte will endeavor to obtain an interest in Rhone-Poulenc by investing capital".

(PE 1270).

Farben's letter of 18 December 1940:

" We now make you this proposal: that the interrelationship aimed at between our two groups be achieved in the scientific and technical field, and in the following manner. When a new emission of shares is made by your company, we shall acquire a share amounting to 25% of your share capital, the equivalent of which we could offer you at a rate agreed upon in shares in our company."

(Mann Exh. 213, Mann Doc. Book IV, p.90).

MANU's interrogation of 28 March 1947:

" I realized that (i.e., the refusal of Rhone-Poulenc's President to have Farben participate in Rhone-Poulenc) at once, and did not refer to the subject again."

(PE 2095, p.9).

First draft of license agreement (December 1940):

" The conclusion of the present agreement does not eliminate the fundamental German demand for economic interlocking".

(PE 2321).

Minutes on Paris discussions of 23/24 May 1941:

" In accordance with the directives given to me in Leverkusen for the negotiations, I (i.e., Werner SCHMITZ) referred again to the old plan of giving Bayer a financial participation in Rhone-Poulenc/Specia ...".

(PE 1276, p.1).

License agreement.

(29) Compensation for the past:

MANU's interrogation of 28 March 1947:

" May I say again that this was not a compensation for the past".

(PE 2095, p.15).

Farben memorandum on discussions of 2 December 1940:

" Bo and Barrel attempted to alter the fundamental basis of the agreement which Farben views as compensation for past events, and



to change it to an ordinary reciprocal agreement. This was rejected".

(PE 2167).

(30) Rhone-Poulenc's alleged violations:

MANN's affidavit of  
21 April 1947:

" In the negotiations with Rhone-Poulenc, I did not take the standpoint that they had injured in any way the rights of I.G. Farben."

(PE 1283, No.2).

See also PE 2095, p.14.

(Compare MANN on direct examination, 2 April 1948:

" I never asserted that it was a legal violation that Rhone-Poulenc committed, but it was, of course, de facto a serious damage that we suffered."

Tr. 10421).

Note prepared by Bo and Wendling after their reading of the original note of I.G., signed by Mr. MANN, and transmitted ... by Faure-Beaulieu on 8 October 1940:

"3) Given the policy followed by Rhone-Poulenc for many years of imitating the principal products manufactured by I.G., there will be serious repercussions for Rhone-Poulenc because of the prejudice suffered in consequence by I.G., to the extent of giving it the right to considerable damages and interest payments.

4) The question of the brand Aspirin has likewise caused great damage to I.G."

(PE 1265).

See also Mann Exh. 203  
and PE 1264.

(31) Who benefited from license agreement?

MANN's interrogation of  
28 March 1947:

" But with this agreement we were to begin a new and much broader cooperation, entirely in favor of Rhone-Poulenc."

(PE 2095, p.15).

Memo Krentz of 3 February 1941:

" Michel congratulated us (Bayer) on the conclusion of this agreement which seemed to be extremely favorable to them both (Michel and Kolb) as to contents and to form. ...."

(Mann Exh. 275).

(32) Buying Faure-Beaulieu.

MANN's interrogation of  
28 March 1947:

"Q. Did he (Faure-Beaulieu) ever derive any advantages from I.G. Farben?

A. No, never.

Q. Nor through this agreement either (i.e., the Theraplix agreement)?

A. No."

(PE 2095, p.10).

MANN on direct examination,  
2 April 1948:

" ... I thought that since this one million francs, after all, had been approved, why not give them to Mr. Faure-Beaulieu as an appreciation for his efforts?"  
(Tr. 10444).

See also Tr. 10559 and Mann Exh. 273.

D. MANN misinforming the Tribunal.

(33) Since MANN's ill intentions against Rhone-Poulenc most clearly appear from the minutes of his government conferences, he took great pains in explaining them away. This particularly refers to PE 1241. This most revealing document is too voluminous as to allow any detailed quotations here. Its reading will show how completely MANN misled the court when he stated with reference to these very negotiations that they

"were of one-sided nature. I just asked what the situation was". (Tr. 10407).

(34) MANN tried to show that the frequent references to the government pressure which, according to these minutes, he asked for and was promised, are an erroneous statement of the Ferben employee who drew up the minutes, and that the minutes were never sent to Leverkusen (Tr. 10407). He also submitted, and quoted from, an affidavit by Werner SCHMITZ which is to the same effect (Mann Exh.198, Tr. 10409). Again, he misleads the court since a statement almost identical in scope and wording was taken from Bayer's own Rhone-Poulenc files in their Leverkusen office, namely PE 1263, a memorandum on the conference "of Consul General MANN with Kriegsverwaltungsrat Dr. KOLB on 4 October 1940, and with Ministerialdirigent Dr. MICHEL on 5 October 1940 in Paris" where this is said:

"At this conference, Dr. Michel agreed with the proposals submitted by Consul General MANN on all points, and promised his assistance to exercise the necessary official pressure on Rhone-Poulenc as well if this should be necessary. ...". (PE 1263).

(35) Speaking of the four license agreements between Rhone-Poulenc and Bayer before the war (one of them referring to Germanine), MANN states:

"All four contracts were incorporated into the new agreements completely." (Tr. 10395).

As a matter of fact, such part of the old agreement as was favorable to Rhone-Poulenc, i.e., Bayer's obligation to pay royalties to Rhone-Poulenc for Germanine, was eliminated (PE 1371, No.3; Mann Exh.279, Mann Doc. Book V, p.125 a; see also confirmation Werner SCHMITZ, Tr. 13862/3, and MANN's evasive statement, Tr. 10601/2). Even more important than that;

The old license agreements were to expire between 1949 and 1961 (SOEMITZ on cross-examination, Tr. 13865/6) while the new agreement was imposed on Rhone-Poulenc for a 50 years' period, that is up to 1990! Seen from the angle of 1940: Instead of expiring nine to twenty years later, the agreements were to be continued for 50 years. That is what MAIN calls "complete incorporation".

(36) MAIN is now embarrassed by the fact that Bayer's suggestions as to a patent law to be imposed on France circulated among the Nazi ministries, including the German Armistice Commission. Commenting on his own Exh. 188 where it is stated:

"He ... asked the undersigned to send on the report that was formerly mentioned already, to the German Delegation of the Armistice Commission".

He testifies:

"that it is an error of the man who wrote this letter. He sent the petition to the Reich Ministry of Justice". (Tr. 10400).

As a matter of fact, MAIN was personally advised by Farben's Patent Department on 10 February 1941 that

"the Foreign Office wants to pass it (Farben's patent report) on to the German Armistice Delegation which, in its turn, will submit it to the French." (PE 2345).

This document, though not yet introduced by the prosecution at the time of MAIN's direct examination, has been part of our DE 60 (E.p.4, G.p.5) ever since said book has been introduced.

(37) MAIN's most conspicuous statement to the Tribunal is found on Tr.p. 10456 in connection with Theraplix. In the Theraplix case, it is our charge that Farben, with the help of, genuine or alleged, government pressure, imposed a joint sales corporation on Rhone-Poulenc. We charge that, in addition, MAIN deceived Rhone-Poulenc by making this firm believe that Rhone-Poulenc and Bayer each acquired 49%, the balance of 2% being taken over by a common trustee, Fauro-Besaulieu, while in fact this 2% share was also bought by Bayer. We have proved this charge by Farben's contemporaneous documents (PEs 1278 and 1281, see also testimony of MAIN's own witness GOREL, Tr. 11859/60).

(38) In his defense, MAIN submitted a bundle of documents including



affidavits, and he also testified himself extensively on this matter. We are not going to analyze all these pieces of evidence, and to point to the manifest contradictions in the statements of MANN himself, or between MANN and his affiants, or the affiants among each other, or between all of them and the documents submitted. The main point was finally admitted by MANN under cross-examination: Bayer fully paid the 1 million Francs for Faure-Beaulieu's 2% share, and Rhone-Poulenc has never been advised of the fact of such payment (Tr. 10604/05). Whatever version of Faure-Beaulieu's position may turn out to be correct: The plain fact is that he could never act as, or considered to be, an unbiased and neutral trustee since he owed the very basis on which this "trusteeship" rested to one of the two parties, i.e., to Bayer. For all practical purposes, Bayer, therefore, held the majority.

(39) It is only with regard to defendant MANN's credibility that we shall now list, in chronological order, his contradictory statements in connection with Faure-Beaulieu's 2%. Most of these statements have been made under oath (i.e., all except PE 2093).

His interrogation 28 March 1947 (PE 2095, p.10);

"Rhone-Poulenc should also take 49%, and the 2% left should be represented by a certain Monsieur Faure-Beaulieu, a solution which I supported for the reason that, in this way, the use of the majority was put actually as well as officially into the hands of the French."

MANN's statement of 31 March 1947 (PE 2093) sent by him to the prosecution on his own volition and in his own handwriting. Page 7:

"Mr. Faure-Beaulieu ... was to represent these 2% as a trustee for I.G.; they were paid by I.G. so that of the Theraplix capital which was increased from 5 million to 50 million Francs, I.G. Bayer had to raise 25,500,000 Francs, and this was the amount paid."

Interrogation 1 April 1947 (PE 2097):

"3) There is one important point in which I should like to correct the statement I made that Friday (i.e., 28 March 1947). In actual fact, the participation in the stock assets of Theraplix never took place on a basis of parity. On the contrary, I.G. took over unofficially for itself the 2% which officially were to be transferred to Monsieur Faure-Beaulieu, so that, in reality, I.G. received 51% and Rhone-Poulenc 49% of the capital of Theraplix."

MAHN's statement 3 April 1947 (PE 2098):

"The records of my ... interrogations on 28 March 1947 and 1 April 1947 have been submitted to me ... I declare herewith under oath that I have given the pure truth to the best of my knowledge and conscience."

MAHN's affidavit 21 April 1947 (PE 1283, p.4):

"Faure-Beaulieu ... was to hold 2% in trust. Actually, however, it was intended - and Rhone-Poulenc was fully aware of the fact - that I.G. Farben would also take over from the start Mr. Faure-Beaulieu's 2% so that, inofficially, I.G. Farben received and paid for 51%."

MAHN, under his oath, in direct examination (Tr. 10654):

"... during the interrogation by the interrogator I had, on my own initiative, corrected the question of the 2% of Mr. Faure-Beaulieu but, unfortunately, my correction went in the wrong direction. My previous statement (i.e., 28 March 1947) had been correct. ...

It (the Faure-Beaulieu matter) was so intricate that, on account of the urging by the interrogator, I eventually said 'Yes' that we had 51% after all."

MAHN, in re-cross examination (Tr. 10662/3):

"Q. You just testified that only through the persuasion of the interrogator, namely me, you corrected your statement to the effect that Bayer hold a 51% share in Thorexlix. Now, is it not true that about six months before you were interrogated in Nurnberg, you made a statement to the same effect: 51% participation of Bayer, to the Economic Division, Decertalization Branch, Control Office I.G. Farben?"

A. ....that was a report from the department at Leverkusen - a report which was added to this Decertalization Branch report.

Q. And you were the author, were you not?

A. I put together the general report. ...."

#### c. COUNT III - SLAVERY AND MASS MURDER

##### General

(40) Defendant MAHN, among other things, was a member of the Farben Vorstand and the Commercial Committee. That the commercial people in Farben took an active interest in labor matters is well illustrated by a memorandum of the Commercial Committee of May 1939 which dealt with the employment of foreigners by Farben (PE 2111). Defendant MAHN attended this meeting. At the time of this discussion the labor problem in Germany had already become acute (Tr. 7131).

(41) Defendant MAHN as a member of the Vorstand came to know

intimately that many categories of forced workers were employed by the Farben concern, in that the Vorstand was requested to approve and did approve the expenditures of millions of Reichsmarks for the housing of such forced labor (PEs 1557, 1558, 1318 and 1328). The interest and information possessed by defendant MANN on labor matters is manifested by his participation in directors' conferences at Leverkusen. For example, the minutes of such a conference of 28 April 1942 state the following:

"Mr. MANN particularly touches the very far-reaching responsibility of the Work's manager in the sphere of the raw material and labor market policy,"  
(PE 1371) (our emphasis).

(42) On 29 October in a Vorstand meeting, defendant SCHMITZ requested defendant MANN to report to the Vorstand on SAUCKEL's account of the labor allocation situation given before a meeting of the Advisory Council of the Reich Group Industry (PE 1322, p.8).

(43) Defendant MANN was considered by his fellow Vorstand members as a reliable source of information on the availability of French chemical workers for Farben from those French firms in which Farben had an interest. This is indicated by a letter dated 6 November 1942 from defendant Christian SCHEIDT to defendant MANN (and defendant von SCHNEIDER) (PE 1327). Significantly, SCHEIDT states that such a suggestion was made in the last Vorstand meeting and that he will find out if the intention can be accomplished within the framework of the Sauckel Action. Reference is also made to Part IV of this brief generally.

#### SUPPLYING POISON GAS FOR MASS EXTERMINATIONS

(44) The law and the facts upon which the Prosecution bases its charge that the defendants manufactured and supplied poison gas to officials of the SS, which poison gas was used in the extermination of enslaved persons in concentration camps throughout Europe, are set forth in the Preliminary Memorandum Brief, Part III-B, and Part IV-D of this Brief. In considering the individual guilt of the defendant MANN, the following should be noted:

(a) That the firm of which MANN was chairman and in which he repre-



sented Farben's 42 1/2% ownership interest, knowingly and willfully supplied poison gas to the SS for the express purpose of killing human beings described as "inferior" people;

(b) that the SS did so use the poison gas supplied by Degesch.

(45) The Prosecution submits that as a matter of law MANN knew, or was legally answerable for knowing, because of the position, responsibility and authority which he had with respect to Degesch, that the firm Degesch played an active, continuing and major role in the extermination of over 4,000,000 people (Tr. 1434, PE 1762, PE 1811, PE 1760 for ident.) in one camp over a period of almost three years. There is no single crime charged here. To Dr. GERSTEIN alone, the SS doctor who stated in unmistakable terms that he wanted the gas for the killing of "inferior human beings", were sent some 20 shipments of Cyclon B during the course of one year (PE 1789). Each delivery to the SS of deadly poison gas, at least after the manager of the firm was specifically told that the purpose was to kill human beings, was a separate and distinct crime of murder. Over 2,000,000 human beings were put to death after the Degesch firm admittedly knew that the Cyclon B gas it was providing to the SS was being used to exterminate "inferior human beings". (PE 2087, Tr. 10544; PE 1811). The manager of Degesch was not just told about the use of Cyclon B for his information but rather for the admitted purpose of enlisting the assistance of Degesch in obtaining a poison gas which would retain its deadliness and yet have no warning agent to make known its presence. In order to cooperate with the SS, Degesch had to ask its contractor, the Dessauer Company, to change the method of manufacture. It had to alter the labels of the containers of the gas. Under these circumstances, the chief representative of a major partner in the firm who is chairman of its administrative committee must be held answerable as a matter of law for the long standing and repeated criminal activities. On the question of whether MANN in fact knew that the Cyclon B furnished to the SS was used to put innocent human beings to death, the Tribunal is asked to consider MANN's position in Degesch in the light of his position and activity in Farben.

(46) In Farben, MANN, as the head of Bayer, was in close contact

with its world-wide outposts engaged in propaganda, intelligence and espionage activities. MANN testified that he had more than 1200 agents in 75 countries of the world (Tr. 10293, Tr. 10584). When it is realized that all the United Nations, including the 19 Latin American countries, constituted a total of 44 countries, the admission that his own representatives were in 75 countries indicates how completely the four corners of the world were covered by Farben men. In addition to the German papers and periodicals which MANN read, he listened to the foreign radio and even visited European countries in 1942, Switzerland and the Balkan countries in 1943, and Switzerland again in 1944 (Tr. 10611). It will be recalled that in 1942, 1943 and 1944 there were BBC broadcasts, Swiss broadcasts (Tr. 14322-14324), declarations by the United Nations, by the President of the United States, by the Congress of the United States, dealing with the Nazi program to exterminate the Jews. The President ROOSEVELT's statement, for example, in the beginning of 1944 stated:

"In one of the blackest crimes of all history begun by the Nazis in the day of peace and multiplied by them a hundred-fold in time of war - the wholesale systematic murder of Jews of Europe goes on unabated.

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"It is therefore fitting that we should again proclaim our determination that none who participate in these acts of savagery should go unpunished." (PE 1757 for identification).

The text of that statement was publicized in German-controlled Europe.

Cables were sent to

"Key United States missions abroad, requesting that the utmost publicity be given in local newspapers, over the radio, and in any other manner feasible. Wide coverage of the statement by neutral radio stations was thus attained over a period of many weeks. Facilities of the Office of War Information, both in this country and abroad, also were fully employed in publicizing the statement in French, German, Italian and other languages as well as English."

"The text of the President's statement was likewise made available to representatives in London of the various governments in exile, and United States missions in Latin American countries were similarly informed.

"Newspapers throughout Europe subsequently carried

news of the statement; editorials praising the President's sentiments were also reported. Ambassador Steinhardt, in advising the Board of the wide publicity in the Turkish and Balkan press, added that the statement apparently made a deep impression on the people of the Balkans and central European countries. 3'

"Tracts on the statement were not only clandestinely printed and relayed through underground channels into enemy territory but were also dropped from the air over Hungary and other satellite countries and thus undoubtedly came to the attention of occupation authorities. 3" (PE 1757).

(47) Any suggestion that MANN with his contacts abroad and in Germany, who was in the business of obtaining and disseminating information, did not know that a program for exterminating millions of people which was denounced by the whole outside world was being carried on just a few kilometers from I.G. Farben's 600,000,000 RM construction site is not worthy of consideration. Yet MANN claims that he did not even hear a "rumor" about any extermination program (Tr. 10611). He even denies that he knew concentration camp inmates were used at I.G. Auschwitz (Tr. 10612).

(48) MANN, as chairman of Degesch and chief representative of Farben in Degesch, received business reports concerning the activity of Degesch : (PEs 1772, 1773 and 1778) \*/ He participated in pre-balance sheet meetings, explaining "after all we were partners and wanted to know what happened to our investments." (Tr. 10616). MANN was informed through technical conferences held between the partners of Degesch. (PE 2101). MANN, chairman of Bayer director meetings which discussed Degesch business. (PE 2102). He attended internal Degesch conferences. (PE 2103, PE 2104). He participated in partnership meetings in lieu of administrative committee meetings. (PE 2105). He took an interest in month to month changes in the turnover figures (PE 2106) and read the monthly Degesch turnover reports. (Tr. 10624). MANN had statistical compilations made up in the I.G. Farben Leverkusen

\*/ Although the Defense have introduced a number of business reports calculated to show that nothing contained therein would have put MANN on notice, it should be noted that the reports submitted, although purporting to be complete, are not in fact, for example, in the 10 June 1941 pre-balance sheet meeting, it is stated: "Director SCHLOSSER submitted two business reports of the management concerning the past year." (PE 2100). If this is true of the other years, the Defense has provided only half a picture.



Special Department "F" concerning Degesch products (PE 2109). He sometimes even inquired about individual fumigation operations of the firm (PE 2108). Bearing in mind his position in Farben and bearing in mind that in spite of all the information available to him, MANN's assertion that he never heard even a "rumor" about exterminations, did not know that concentration camp inmates were working at I.G. Auschwitz, and knew nothing of the business of the firm of which he was chairman, the Tribunal is asked to consider MANN's assertion in the light of the observation contained in the Judgment in the Justice Case:

"This Tribunal is not so gullible as to believe these defendants so stupid that they did not know what was going on....."

(Tribunal III, Case III, page 145).

MEDICAL EXPERIMENTATIONS UPON ENSLAVED PERSONS

(49) The evidence establishing that MANN was a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving medical experiments upon human beings without the subject's consent, is summarized in the Preliminary Memorandum Brief. The Preliminary Memorandum Brief outlined the evidence introduced in the Prosecution's Case-in-Chief with respect to three major series of criminal experiments:

- (a) Those conducted in the Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines;
- (b) Those conducted in the Buchenwald concentration camp to determine the efficacy of Farben chemo-therapeutics, acridin "3582", rotenol and methylene blue, in the treatment of typhus;
- (c) Those conducted in the Auschwitz concentration camp to determine the efficacy of the Farben chemo-therapeuticum acridin "3582" in the treatment of typhus.

The evidence has established beyond any question of a doubt that with respect to all three series, enslaved persons who were concentration camp inmates were subjected, without their consent, to criminal medical experimentation resulting in bodily harm and death. The evidence also established beyond any reasonable doubt that these experiments were conducted for the purpose of testing the efficacy of Farben products.

(50) With respect to the defendant MANN's participation in these

crimes, the Prosecution submits that by virtue of the responsibility of the position he held in the Pharmaceutical Division of I.G. Farben, and by virtue of the information he received concerning the activities, and particularly the testing of Farben's products, that MANN, as a matter of law, is criminally responsible for the acts of his subordinate I.G. Farben officials who carried out the policies and programs which he initiated and carried out. In addition to the criminal responsibility of the defendant MANN flowing from the position he held in the Farben Pharmaceutical Division \*/ and the knowledge he had of its activities, the Prosecution submits that MANN is specifically chargeable with responsibility for three separate and distinct series of criminal medical experiments. MANN was a principal in, accessory to, ordered, abetted, took a consenting part in, or was connected with plans or enterprises involving medical experiments upon human beings without their consent; which experiments were conducted

(a) At the Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines;

(b) At Buchenwald concentration camp to determine the efficacy of Farben's typhus therapeutics acridin and rutenol;

(c) At Auschwitz concentration camp to determine the efficacy of Farben's typhus therapeutics acridin and rutenol, and B1034.

(a) Experiments at Buchenwald concentration camp to determine the efficacy of Farben typhus vaccines.

(51) With respect to the above series of criminal medical experiments, there is no one in I.G. Farben more directly responsible for taking the initiative and actually setting in motion the criminal medical experiments conducted to determine the effectiveness of the Farben preparations. When the tremendous need in Germany for vaccines developed, MANN, whose position was commercial rather than scientific, was not concerned with finding a new vaccine nor with producing an old

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\*/ Chief of the Bayer Sales Combine, member of the Pharmaceutical Main Conference, deputy chairman of the Aufsichtsrat of the Behringwerke A.G., attended meetings of the Pharmaceutical Central Conference and, in addition, all the Pharma Bureaus sent I.G. Farben preparations out to be clinically tested, were all directly under MANN.

vaccine, but as head of the sales department of I.G. Farben was interested in convincing the authorities to use a Farben vaccine. The Germans already had an effective typhus vaccine in the Weigl vaccine (Tr. 10801). The real problem was that the Weigl method, i.e. using infected lice, was too slow a process and did not lend itself to mass production. Moreover the Germans also had a less effective vaccine than Weigl, which was made with egg yolk cultures, according to the Cox method, which could be mass produced. The Farben Behring Works had no vaccine of its own, but it had experimented with a variation of the Cox method and came up with a vaccine which was practically the same as the Cox vaccine except that it was more diluted.

(52) It will be recalled that HOERLEIN on direct examination as well as cross, painted a picture of great need in Germany for a vaccine against typhus and stated that it was every scientist's duty to find a solution to the typhus danger. On the other hand, defense witness DEMNITZ, manager of the Behring Works which produced the Farben typhus vaccine, admitted on cross examination that the only problem was that of mass production and that the Cox vaccine was capable of mass production. He admitted also that the Behring Works' facilities could have been utilized for production of the necessary vaccine according to the Cox method (Tr. 10845-6).

(53) DEMNITZ' testimony is fully borne out by the fact that after the experiments were made to determine the comparative effectiveness of the Farben and Cox vaccines, and the Farben vaccine had been found to be inferior, the German government ordered Behring Works to produce according to the Cox method (PE 1632). Unfortunately this order was given only after the criminal medical experiments took the lives of many unfortunate concentration camp inmates (PE 1608). It will be recalled that the top scientist in the field, Professor GILDEMEISTER, did not think much of the Behring work vaccine (Tr. 10847; PE 1607). Even HOERLEIN admitted that the Behring Works were having difficulty convincing the authorities that their vaccine was effective (Tr. 6440-1). It is significant that on the 22nd of December 1941 when DEMNITZ, the manager of Behring Works, the producer of the Farben vaccine, and the



SS Dr. KRUGOWSKY, who was one of the German officials most directly concerned with solving the typhus problem, not one word was spoken about the meeting which was planned for the following week for the very purpose of finding a vaccine which could combat the existing typhus danger (Tr. 10844). However, on the following day MANN personally visited Under Secretary of State CONTI and informed him about the work being done by the Behring Works, Marburg with regard to the production of typhus vaccines. Thereafter obviously due to MANN's initiative Farben was represented at the 29 December 1941 meeting. The minutes state:

"The meeting was called at the request of Under Secretary of State Dr. CONTI who had been informed by Consul General MANN, who visited him personally on 23 December, about the work done in Marburg with regard to the production of typhus vaccines."  
(PE 1864).

Not only did MANN personally visit Dr. CONTI and tell him about Marburg's typhus vaccine, but he made sure that when the 29 December 1941 meeting took place his suggestion would not be forgotten. MANN had three of his representatives attend the 29 December 1941 meeting: Director ZAHN, MANN's chief assistant in charge of Sero-Bacteriological Department, Behringwerke, Leverkusen; Dr. NEUMANN, assistant to Dr. ZAHN in MANN's sales organization; and Dr. FERNITZ, director of the Behringwerke, Marburg. From the minutes of the meeting, it is quite clear that had MANN's representatives not been present, the Farben product would not have been included in any medical experiments. It was only after the Farben men spoke up for the Behringwerke vaccine that it was reluctantly agreed that experiments with the Behringwerke vaccine would be made.

In a report on the meeting, it is stated:

"A plan for experiments has been arranged with Dr. KRUGOWSKY. In this experimental project Weigl's vaccine and the Robert Koch Institute's vaccine are to be used. When we asked that the Behringwerke vaccine should also be included, Professor GILDEMEISTER remarked that he was not interested in this. During the course of the conversation he later on, however, seemed to realize that this peculiar point of view, because I think that that is all the participants considered it to be, could not be maintained, and

he advised us to get in touch with Dr. MRUGOWSKY ourselves so that our vaccine could also be included in the tests." (PE 1607).

(54) The ultimate decision made at the meeting was that the Behringwerke vaccine, prepared in both single strength and double strength, would be tested for comparative efficacy, and that for this purpose SS Dr. MRUGOWSKY would be contacted. There can be no doubt that MANN, who originally suggested the use of the Farben product even prior to the meeting and who thereafter had three representatives attend the meeting and argue for the inclusion of the Farben product in the tests, was kept fully posted as to the progress of the experiments.

(55) It would not be unusual for ZAHN and NEUMANN who worked directly for MANN, to report directly to him. However, the fact that DEMNITZ who was responsible to LAUTENSCHLAGER for production and who was responsible to HOERLEIN as chairman of the Aufsichtsrat of Behringwerke, Marburg, sent the original of his report on the meeting to MANN with copies of HOERLEIN and LAUTENSCHLAGER, indicates the active and responsible role that MANN played in pushing the experiments with Farben vaccines. The fact that Behringwerke, Marburg actually sent the Farben typhus vaccine to the concentration camp Buchenwald (Dr. DEMNITZ) for the purpose of having the experiments conducted (PE 1609) and that Dr. DING artificially infected concentration camp inmates with a typhus virus for the purpose of the experiment and that a number of the experimentees died is now too well established to warrant discussion here (PE 1608; see Preliminary Brief and Final Brief, Part IV-D.). However, the following entries in the DING Diary should be noted here (PE 1608):

"DIARY of the division for research of spotted fever and virus at the Institute of Hygiene of the Waffen SS.

29 Dec. 41:

Conference between army sanitation inspector, General-Chief Surgeon Professor Dr. Handloser; states secretary for the department of health of the Reich SS-Gruppenfuehrer Dr. Conti; president Prof. Reiter of the health department of the Reich; president professor Gildemeister of the Robert Koch Institute (Reichs Institution to combat contagious diseases) and SS Standartenfuehrer and lecturer (Dozent) Dr. Mrugowsky of the Institute of Hygiene, Waffen SS, Berlin.

It has been established that the need exists to test

the efficacy of, and resistance of the human body to the spotted fever serum extracted from egg yolks. Since tests on animals are not of sufficient value, tests on human beings must be carried out.

2 Jan. 42:

The concentration camp Buchenwald is chosen for testing the spotted fever serums. SS-Hauptsturmfuehrer Dr. Ding is charged with these tests.

.....  
6 Jan. 42

1 Feb. 42

Spotted fever vaccination material - Research Series I  
Execution of vaccination for the immunization from spotted fever, using the following vaccines:

1) 31 persons with Weigl-vaccine from the intestines of lice of the institute for spotted fever and virus research at the Supreme Command Army (OKH) Gorkow.

2) 35 persons with vaccine from (Huehneraidottersackkulturen) made by the process. Cox. Gildemeister & Haagen.

3) 35 persons with vaccine 'Behring Normal' (1 egg bloated (aufgeschwemmt) to 450 ccm. vaccine. Mixture of 70% Rickettsia Mooseri and 30% Rickettsia Prowazeki).

4) 34 persons with 'Behring Normal', 'Behring Strong' (sterk) (1 egg bloated) (aufgeschwemmt) to 250 ccm).

5) 10 persons for control.

3 Mar. 42:

All persons vaccinated for immunization between 6 Jan. 42 and 1 Feb. 42, and the 10 persons for control, were infected with a virus culture.....

19 Apr. 42:

Final report on the 1st spotted fever vaccine research series: The stone block #46 was made available for the purpose of these spotted fever experiments.

5 deaths (3 under control  
1 with 'Behring Normal'  
1 with 'Behring Strong' (sterk)

Dr. Ding  
SS-Hauptsturmfuehrer "

(56) It may be noted in passing that there were no deaths among those who were vaccinated with the Weigl vaccine and no deaths among those vaccinated by the Cox vaccine. The only deaths recorded are three from the control group, (i.e., those not vaccinated at all before being infected,) and one death from each of the two Behringwerke vaccines. Moreover, after Bieber notified Farben Behringwerke that the Farben product was inferior (FE 1632) and had a special conference on the subject with JEMNITZ and ZAHN; and after ZAHN sent the report of the conference to MAHN directly (FE 1667), the Behringwerke through



HEINITZ again sent the Behringwerke vaccine to Buchenwald for further testing. On 1-20 December 1942 the following entry appears in the DING Diary (PE 1608);

"Spotted Fever Vaccine - Research Series V

To determine the immunisation effect, 20 persons were actively vaccinated for immunisation with vaccine 'EM' of the Behringwerke - Dr. Demnitz -

On 26 January 1943 'artificial infection with Eidotter virus.'

It should be noted that this new delivery of Behring vaccine to Dr. DING at Buchenwald for further experimentation was made more than six months after the results of the first series of tests were made known. Recalling the detailed charts, fever curves, death rates, etc. that Dr. KOGON testified he sent to the Behringwerke, it is inconceivable that KAHN who took such an active interest in pushing these experiments knew nothing whatever of the conditions under which they were made.

(57) In this connection the Tribunal's attention is directed, to the fact that the branches of Farben directly under KAHN, such as Behringwerke, Leverkusen (PE 1601); Pharma Leipzig (PE 1602), and Behringwerke, Marburg (Bayer) (PE 1603) had various dealings from 1939 through 1941 with the concentration camp Buchenwald for the purpose of testing Farben products on concentration camp inmates. Knowing that Buchenwald was a concentration camp, knowing that the tests conducted in the concentration camp Buchenwald were tests on inmates and not German personnel of the camp. There was indeed a heavy responsibility on KAHN to determine precisely under what conditions the experiments were being carried out. In the present case the evidence shows that the defendant KAHN must have known that controlled experimental conditions, i.e., artificial infection would be employed at Buchenwald since otherwise there would have been no point whatever in testing small groups of inmates after the inoculation of 3,000 persons in a heavily infested area was not deemed conclusive.

(58) It will be recalled that on the cross examination of Dr. HEINITZ, the question was put to him as to what greater proof he expected to have of the efficacy of the Behring Work vaccine from

inoculating 50 persons in Buchenwald than he already had from the 3,000 persons inoculated by Professor KUDICKE in a typhus congested area. His answer unwittingly showed the real difference between the circumstances of the 3,000 inoculations which apparently did not prove anything and the 50 inoculations which were intended to provide the real proof. The question and answer were as follows:

"Now you knew in your discussions in the 29 December meeting that your Behring vaccine had already been used on some 3,000 persons in a typhus congested area. Now what additional proof or more accurate proof did you think you were going to get from these 50 doses you sent to Buchenwald?"

"Kudicke had vaccinated 3,000 persons. That was not an experiment or a test, it was usual application of a vaccine . . ." (Tr. 10849)

What Dr. DEMNITZ forgot was that Professor KUDICKE had made "very special tests". The minutes of the 29 December meeting report that:

"On this occasion Professor Kudicke stated at the vaccine of the Behring Works had already stood up to very special tests, because he had vaccinated numerous Jews in the Warsaw Ghetto, who were particularly exposed, with our vaccine and up to the present time had not yet found a single failure." (PE 1607).

A further discussion concerning the significance of the DEMNITZ testimony in connection with the decision of the 29 December meeting will be found in Part IV-D. For the purpose of indicating personal responsibility of MAHN, it should suffice to point out that his Lieutenants remained active in the carrying out of the Farben part of the experiments by making available the necessary quantities of the Behringwerke vaccine (PE 1609). Before leaving the subject one final point should be brought to the Court's attention and that is that when Director ZAHN sent copies of the report of 29 December meeting to MAHN, HORNLEIN and LAUTHSCHLAGER, he sent the original (action copy) to MAHN (Tr. 6315-6).

(b) Experiments at Buchenwald concentration camp to determine the efficacy of Farben's typhus therapeutics, acridin and rutenol.

(59) With respect to the experiments conducted at Buchenwald to test Farben's acridin, rutenol, and Methylenes Blue. The Preliminary Brief contains the basic facts. Additional evidence introduced since the submission of the Preliminary Brief may be found in Part IV-D of this Brief.

(60) The Tribunal's attention is called to the fact that with respect to acridin and rutenol (not Methylene Blue), the experiments concerning which were suggested by Hoerlein - (see Hoerlein Part V), it was MANN as well as LAUTENSCHLAGER who took the initiative in having the SS Dr. KRUGOWSKY test the effectiveness of the product on human beings. Although Acridin and rutenol were completely under the jurisdiction of LAUTENSCHLAGER and although LAUTENSCHLAGER's top assistant WEBER was present at the meeting with KRUGOWSKY when the decision was made to make the tests, that meeting itself, was held at MANN's Bauringwerke, Berlin office, in the presence of Dr. KOHLHASS, acting for MANN's Pharma Bureau, Berlin. The minutes of the meeting, Par.4, are as follows:

"Testing of typhus preparation 3582"

Dr. Krugowsky is being handed a report about the preparation and he declares himself prepared to carry out in appropriate cases experiments with 3582 and the necessary material for this purpose will be put at his disposal. Dr. Krugowsky declares emphatically that he is very much interested in these experiments and he promises to further them with all means in his power. In our presence he called in the Deputy Chief Medical Officer to whom he gave the appropriate instructions about the testing of the preparation....."(PE 1638).

Again, although it is LAUTENSCHLAGER's Hoechst plant which is primarily interested in the acridin and rutenol experiments, MANN's organization, not only is informed (PE 1668) but actually participates in making the experiments possible. MANN's Pharma Bureau, in answer to a request, writes to I.G. Hoechst, copy to I.G. Leverkusen, that "The specimens of the preparation we have here in stock are being held for the experiments of Standartenfuhrer Dr. Krugowsky." (PE 1641).

(c) Experiments at Concentration Camp Auschwitz to determine the efficacy of the Farben chemo-therapeuticum Acridin "3582" in the treatment of typhus.

(61) With respect to the experiments at Auschwitz, reference is made to the Preliminary Brief and Part IV-D of this Brief. It might be noted, however, that the SS Dr. VETTER who actually conducted the experiments by artificial infection on concentration camp inmates at Auschwitz, was administratively under MANN as a Pharma Leverkusen employee.



5. Proposed Findings of Fact With Respect to the Guilt of  
Wilhelm Rudolf Mann.

The evidence has established beyond a reasonable doubt the guilt of the defendant Wilhelm Rudolf MANN on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant MANN under each of these Counts is predicated upon the following facts which have been established by the proof.

Count I.

1. The following activities of MANN, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) MANN's activities as one of the leading officials of Farben, including his activities as a member of the Vorstand and Central Committee from 1933 to 1945; as a member of the Commercial Committee from 1937 to 1945; as Chief of the Sales Combine Pharmaceuticals and Plant Protective Agents from 1931 to 1945; as Chairman of the Verwaltungsrat of Degesch from 1938 to 1945; and as Deputy Chairman of the Aufsichtsrat of the Behringwerke A.G. from 1932 to 1945.

(b) MANN's activities in other positions, including his activities as member of the Greater Advisory Council of the Reich Group Industry since 1943; chairman of the Colonial Economy Committee of the Reich Group Industry since 1943; and member of the Advertising Council for German Economy since 1943.

(c) MANN's activities carried on through the instrumentality of Farben, and through his other position, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stock-piling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

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2. MANH participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression, was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. MANH knew this for a number of reasons:

(a) MANH knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to MANH that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in MANH's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by MANH and the timing of such activities, establish that MANH knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by MANH at which the aims of the Nazi leader were expressed, and MANH's own statements on various occasions, are sufficient in and of themselves to establish that MANH had the required state of mind.

(e) MANH's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to MANH; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, MANH knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant MANH.

(a) As a matter of law, even if the facts established that MANH acted under duress or coercion, this would be no defense.

(b) The facts do not establish that MANN acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT II

1. The defendant MANN knowingly participated in plans to spoliate, and in spoliating, the chemical industries of occupied countries.

2. MANN bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. MANN played an especially active role in the plunder and spoliation of property in France, and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant MANN.

(a) As a matter of law, even if the facts established that MANN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that MANN acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT III ( Sections A and C )

1. MANN knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. MANN took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.



4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of MANN were, to MANN's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

5. MANN continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

6. The alleged defense of duress or coercion is not available to the defendant MANN.

(a) As a matter of law, even if the facts established that MANN acted under duress or coercion, this would be no defense.

(b) The facts do not establish that MANN acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section B - Mass Exterminations)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. MANN participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. MANN knew that human beings in concentration camps were being exterminated by gassing.

4. MANN either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

COUNT III  
(Section B - Medical Experiments)

1. MANN participated in supplying Farben pharmaceuticals and vaccines to the SS for the purpose of having them tested, knowing that the tests would be conducted by medical experimentations upon concentration camp inmates without their consent.

2. MANN took the initiative in getting Farben products tested by the SS through the means of criminal medical experiments.

3. These criminal medical experiments resulted in bodily harm and death to a number of persons.

COURT V

1. The foregoing activities were engaged in by the defendant MANM in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan of conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

2. The defendant MANM, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.

1. Charges in the Indictment. The defendant OSTER is indicted under Count I (crimes against peace), Count II (plunder and spoliation constituting war crimes), Count III (slave labor - war crimes against humanity), and Count V (conspiracy to commit crimes against peace). The defendant took the stand in his own behalf (Tr. 10663, et seq.)

2. General Nature of the Evidence Supporting These Charges. OSTER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, economic and political life of Germany, OSTER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

These charges against the defendant OSTER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including a Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant OSTER sets forth certain highlights in the activities of the defendant OSTER and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.



3. OSTER's Positions From 1933 to 1945. The positions which the defendant OSTER held in the financial, economic, and political life of Germany from 1933 to 1945 are set forth in some detail in PE's 312 and 313 (see also testimony of OSTER, Tr.10665, et seq.) The following positions held by OSTER during these years are of special significance:

- (a) OSTER was a member of the Vorstand from 1926 to 1945.
- (b) OSTER was a member of the Commercial Committee (KA) from 1937 to 1945.
- (c) OSTER was manager of the nitrogen syndicate from 1930 to 1945; chief of the Nitrogen Sales Division of Farben from 1930 to 1945; and chief of the nitrogen department of the economic group chemical industries from 1942 on.
- (d) OSTER was Deputy Manager of the Ammoniak Werke Hoesch from 1927 to 1945; and member of the Aufsichtsrat and Vorstand of a number of concerns.
- (e) OSTER was a member of the East Asia Committee from 1935 to 1945.
- (f) OSTER was a supporting member of the SS Reitersturm from 1935 to 1939; member of the German Labor Front (DAF) from 1934 to 1945; and member of the NSDAP from 1940 to 1945.

4. Certain Specific Activities of OSTER During the Period 1933 to 1945.

a. COUNT I - CRIMES AGAINST THE PEACE

(1) Although OSTER specialized in the field of nitrogen, as a member of the Vorstand of Farben during the whole period from 1933 to 1945, he was informed of and authorized, approved, or ratified all major activities of Farben during this period. He was informed of and attended several meetings relating to intensification of air raid precautionary measures during the period from 1933 to 1939, (PE's 173 & 182). In OSTER's own words "up to 1937, the end of 1937,

it was customary that all members of the working committee which had existed up until then regularly reported on their fields of work, and I did that too." (Tr.10685). OSTER was, of course, one of those who were informed of the establishment of the Vermittlungsstelle W in September 1935 (PE 101; Tr.10695); and of the establishment in January 1936 of Section A within the V/W for counter-intelligence matters (PE 145). As early as 1935 Farben, on its own initiative conducted experiments for the manufacture of hexogene (which involved the nitration of certain salts) in agreement with the OXH (PE 110).

(2) As early as January 1936, it is clear that matters relating to the production of nitrogen were considered in the light of the requirements of nitrogen for war. In January 1936, Farben's nitrogen department submitted a report to Colonel Thomas, Chief of the Military Economic Office of the High Command, and to the defendants OSTER and Krauch concerning the project for the establishment of a nitrogen plant on the Lower Isar. This project was turned down on the grounds that: (PE 2112)

"The normal agricultural requirements of nitrogen are approximately 450,000 tons per annum, that of the industry, viz. for technical purposes, 45,000 tons, altogether approximately 495,000 tons per annum. Therefore, in case of war further 495,000 tons N per annum would be available for the increased requirements of the munitions industry which are to be expected. For Germany and her Allies these increased requirements amounted to an estimated 70,000 - 90,000 tons N each, during the last two years of the war in 1917 and 1918. Even if one counts on an increase of these requirements to 100,000 tons N per annum, then five times the necessary quantity would be available yet; even if Oppau and some of the more endangered plants would have to stop production through enemy action, the remaining capacity would be more than sufficient for war requirements."

OSTER was present at the conferences on nitrogen held at Leuna in December 1937 showing an increase in nitrogen production in 1937 as compared to 1936. It was stated that the increase was made up of 10,000 tons of nitrogen for nitric acid and 7,000 tons for liquid ammonia (PE 127).

(3) Beginning in September 1937 the Commercial Committee regularly dealt with mobilization questions at its monthly meetings (PE's 249 and 250). OSTER was present at practically all these meetings dealing with mobilization questions from September 1937 through to February 1942. Specifically, he was present at meetings of the Commercial Committee which discussed mobilization questions in September, October, November and December 1937; January, April, June and July 1938; March, May, June, October and December 1939; March, April, June, September and November 1940; February, March, April, July and November 1941; and February 1942 (PE 250). At the meeting in October 1937, it was stated that the Sales Combines would look into stock piling matters which would then be discussed again by the Commercial Committee. In the meeting of November 1937, in discussing mobilization questions, it was stated that von Schnitzler together with ter Meer would "clarify the collaboration of the Political Economy Department with the V/W on this question". In the meeting of January 1938, Ilgner reported on the mobilization questions and informed the Committee that with the consent of ter Meer "this question will be dealt with by the V/W in regard to matters of production and by the Political Economy Department in regard to commercial matters". In the meeting of June 1938, it was stated that the Commercial Committee considered it necessary that in general questions of military economy, Farben act as a single entity in their relations with the authorities (this point was placed on the agenda of the next Vorstand meeting). At the meeting in July 1938, von Schnitzler reported on negotiations with the governmental authorities, including the labor offices, on mobilization questions. As indicated in other portions of this brief, at the highly significant meeting of the Commercial Committee of 11 March 1938, one day before the invasion of Austria, the mobilization was discussed. (See Part I of this brief and Sections of Part VI relating to defendants Schmitz, von Schnitzler, Haefliger, etc.) Although the defendant OSTER was not listed as being present at the meeting of 11 March 1938 it is clear that he must have been informed of what



happened at that meeting. In this connection, it may be noted that at the meeting of Commercial Committee in June 1938, with OSTER present, the acquisition of the Austrian chemical plants by Farben was discussed in detail (PE 367). It is stated that Ilgner would act as a central authority for Farben concerning Farben's interests in Austria.

(4) In May 1937, the V/W sent a letter to Farben's Works Combines and other agencies with respect to secrecy regulations in connection with work being done for the Wehrmacht. OSTER received a copy of this letter. (PE 148). In August 1937, a commercial committee began holding regular monthly meetings. In a letter to Bosch from von Schnitzler, von Schnitzler in giving the reasons for resuming periodic meetings of the commercial directors, referred to "questions of purely economic character, as well as questions relating to political economy and financial politics". Von Schnitzler also stated that Paul Mueller, Chairman of DAG, would be contacted "as to the way in which we should include the explosives interests in our circle" (PE 361). The first of such periodic meetings of the Commercial Committee was held on 20 August 1937 with OSTER present. At this meeting, it was stated that Paul Mueller was to be invited to further meetings as a representative of the explosives group (PE 362). In September 1937, a meeting of the Commercial Committee was held, with OSTER present, at which a number of significant matters were discussed. One of the matters discussed was the staffing of Farben agencies abroad and collaboration with the AO (Organization of Germans abroad). In this connection, it was stated that:

"It is generally agreed that under no circumstances should anybody be assigned to our agencies abroad who is not a member of the German Labor Front and whose positive attitude to the new era has not been established beyond any doubt. Gentlemen who are sent abroad should be made to realize that it is their special duty to represent National Socialist Germany. They are particularly reminded as soon as they arrive they are to contact the local or regional group (of Germans abroad) respectively, and are expected to attend regularly at their meetings as well as at those of the Labor Front. The Sales Combines are also requested to see to it that their agents are adequately supplied with National Socialist literature.

Collaboration with the A.O. must become more organized. It seems practical to work out a uniform plan jointly with the A.O. which will show within which period of time it will be possible to eliminate deficiencies still existing with our agencies abroad, which have been a subject for complaint."

Reference was also made at this meeting to the problems accumulating in connection with the Four Year Plan and Rearmament and the necessity therefore of all agencies of Farben to maintain close contact with the Political Economy Department "with regard to conferences, or negotiations with authorities, associations, and political organizations, so as to assure a uniform attitude of the I.G. towards all these questions". A report also was made on measures to be taken in Austria to establish closer relationship between Farben, Skoda Werke Wetzlar and the Czech and Austrian branches of DAG. Farben, the DAG, and SWA were each to take one third of the stock of a new company called Anilinchemie. It was stated that: "in this connection, OSTER discussed the question of how far the sale of nitrogen, which is now in the hands of Detag, could also be transferred to Anilinchemie" (PE 363; Tr.10699). At the meeting of the Commercial Committee in October 1937, with OSTER present as well as Paul Mueller of DAG, a report was made on the tasks which had been entrusted to the Commercial Committee as "mobilization questions". It was stated that the sales committees were to send to the office of the Commercial Committee lists of non-Aryan employees working abroad, together with proposals for the gradual reduction in their number. It was agreed that von Schnitzler would discuss with the Nazi foreign organization a reduction in the numbers on this list (PE 365). A Commercial Committee meeting held in November 1937, with OSTER present, discussed mobilization questions in full. Collaboration with organizations of the NSDAP abroad was also discussed. Military training of employees was on the agenda. Krueger reported about a suggestion of one Ammann, referred to as the "Fuehrer's confidential agent for the press", that Farben should name persons abroad who could assist young editors being trained abroad with advice and information, and by their

"introduction to the interested circles in the respective countries". The Commercial Committee agreed that the names of Farben's representatives in a number of countries should be given to Hitler's confidential press agent (PE 366). OSTER was present at the meeting of the working committee of the Vorstand in June 1937 when Schnitz reported the approval of the Central Committee of various contributions to the Adolf Hitler Fund (PE 79). A secret letter of the V/W of December 1937 dealt with "planning of the Sales Departments to meet mobilization requirements". Reference was made in the letter to what was to be expected of Farben's Sales Departments "in the event of war". It was pointed out that the preliminary mobilization work had not involved the Sales Departments to the same extent as it had involved the production plants. Reference was also made to the effort to obtain from the approval authorities at the Reich War Ministry information concerning goods which would not be controlled in the event of war. It was stated that "the answer to this question is, in our opinion, of decisive importance for the structure of a distribution organization which will serve a useful purpose in the event of mobilization. It was further stated that, with respect to the mobilization plans, Dr. OSTER of Nitrogen Syndicate "prefers not to commit himself yet as far as the field of work is concerned". (PE 199; Tr. 10696 & 10697).

(5) OSTER was present at a number of Commercial Committee meetings which discussed Farben's activities and interests in Austria and Czechoslovakia beginning in September 1937 through to April 1943. (PE 1069). OSTER was present at a meeting which discussed these matters held in September, October and December 1937; February, April, June, July, October, November and December 1938; January, February, March, April, May and June 1939; February, March, April, July and November 1941; February and September 1942; and April 1943. At the meeting held on 22 April 1938, the discussion was devoted to the situation which had arisen through the incorporation of Austria, with particular reference to Farben Sales Organizations. Frank-Fahle



reported on a meeting held to discuss Austrian matters on 19 April 1938, the minutes of which were attached to the records of the Commercial Committee. In connection with Farben's interest in Czechoslovakia, the relationship with Aussig was discussed. Detailed discussions were held concerning steps to be taken in connection with the Austrian chemical industries. (At the July 1938 meeting, the acquisition of the stock of Skoda Werke Wetzlar was discussed). Following the meeting held in April 1938 where Farben's interests in Aussig were discussed, a special meeting was called by Frank-Fahle on 17 May 1948, the results of which were reported to the meeting of the Commercial Committee on 24 May 1938. In this connection, see particularly PEs 833 and 1612 (Tr.2033, et seq.) and the Preliminary Memorandum Brief, 96 & 97). This was a meeting at which Farben's Commercial Committee decided "to employ Sudeten Germans for the purpose of training them with I.G. in order to build up reserves to be employed later in Czechoslovakia." Although OSTER was not listed as attending the 24 May 1948 meeting, it is obvious that, having been a regular attendant at Commercial Committee meetings from the beginning and having been a regular Vorstand member from 1933 on, he must have been informed shortly thereafter of what took place at that meeting. In this connection, it will be noted that OSTER attended the meeting held in April 1938 and the meeting held in June 1938. OSTER was informed of the contribution of 100,000 Reichsmarks made on 22 September 1938, to be placed at the disposal of the Sudeten German Relief Fund and the Sudeten German Free Corps, the latter being an organization formed to create disturbances on the Czech border. (PE 834). In November 1938, after the Sudetenland had been invaded, the Nitrogen Syndicate took steps to prevent Czechoslovakia from carrying out a program which they had developed to become independent in the field of nitrogen. (PE 1906; Tr.10720).

(6) In an affidavit OSTER has stated:

"After 1933 I refused to join the NSDAP and the German Labor Front as I foresaw that Hitler intended to go to war and was not in favor of the attitude of the Party vis-a-vis the churches" (PE 313, par.17). (Our emphasis).

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Testifying of these early misgivings with respect to the program of the Party, OSTER stated that as time went on "with regard to the situation in the field of foreign policy, I had quieted down more and more when I saw that my initial anxieties were not justified and that Hitler, in the field of foreign policy, really had a more clever hand than I had imagined" (Tr.10669). On cross-examination, the defendant OSTER stated that after the march into Czechoslovakia he "had strong doubts" concerning Hitler's foreign policy, stating "that was the last straw" (Tr.10765). Shortly thereafter, on 4 May 1939, the Intelligence Department of OSTER's Nitrogen Syndicate sent a letter to Farben's V/W concerning information that had been obtained with respect to stand by plants which had been erected by the British War Office for the production of primary nitrogen. According to this report, the two plants would "probably be able to cover the entire requirements of primary nitrogen of the British plants for the production of highly concentrated nitric acid, even should the Billingham plant be put out of action" (PE 922; Tr.10674). On 12 May 1939, OSTER attended a meeting of the Commercial Committee where mobilization questions were discussed and at which it was agreed that "in principle, no foreigners shall be employed at the central agencies" (PE 2111).

(7) From March 1939, which OSTER described as "the last straw" in Hitler's foreign policy, until the end of the war, OSTER continued to participate in preparation for aggression, in waging aggression, and in reaping the spoils of aggression (PEs 607, 608, 611, 638, 866, 929, 368, 369, 370). In August 1939, OSTER, as a member of the Vorstand, approved the contribution of 50,000 Reichsmarks for the mobilization of the National Socialist Air Corps (PE 1047). OSTER participated in drawing up Farben's "new order" for taking over and integrating into the German economy the chemical industry of Europe and for controlling the chemical industry of most of the world (PEs 1051, 1052; see Tr.10729 to 10731).

(8) Throughout this whole period, OSTER remained head of the

Nitrogen Syndicate, was a regular member of the Vorstand and "always followed the discussions of the Commercial Committee with great interest" (Tr.10687). In speaking of his early doubts with respect to Hitler's policies; of his growing feeling that Hitler "really had a more clever hand than I had imagined"; and the invasion of Czechoslovakia as being "the last straw"; OSTER never the less maintained that he did not consider German rearmament to be for aggressive purposes, stating "rearmament for a country like Germany seemed to me to be desirable on principle in order that the country would again become an equal value within world events".

b. COUNT II - PLUNDER AND SPOILIATION

(9) As a member of the Farben Vorstand since 1926 and of the Commercial Committee since 1937 (PE 312), defendant OSTER is responsible for the acts of Farben in the take-over of the properties in occupied territory during the war. Farben's Commercial Committee the meetings of which were regularly attended by defendant OSTER, was particularly a forum for considering Farben's new "participations" once Germany had embarked on its policy of forceful expansion (PE 1069, 1622, 1623; extracts from the minutes of Commercial Committee meetings). Defendant OSTER participated in, and approved of, Farben's spoliative acts planned in Soviet Russia and committed in Poland and Franco. In the case of Norwegian spoliation, he played a leading part.

Poland

(10) Defendant OSTER attended the meeting of the Commercial Committee of 20 October 1939 where Farben's spoliative plans in Poland were being discussed. It was also stated there that "Farben takes a positive attitude as to collaboration with the Hermann Goering Works. Dr. Buetevisch will see Herr Pleiger within the next few days ... and will avail himself of the opportunity to express



Farben's preparedness, on principle, to cooperate" (PE 1133). He also attended the Vorstand meeting of 8 November 1939 where Farben's concentrated efforts to participate in the distribution of Polish property were revealed (PE 2120). Defendant OSTER himself, at said meeting, reported on the nitrogen consumption "in the Polish area of interest, and on the endeavors to intensify agriculture in the new Reich districts Western Prussia and Posen".

#### Soviet Russia.

(11) OSTER attended the 26th meeting of the Vorstand on 10 July 1941 where the Eastern corporations were discussed (PE 1177); also the Commercial Committee meeting of 4 November 1941 (PE 1564) dealing with Chemie Ost G.m.b.H. He himself attended, as Farben's representative, the meeting with the RMK concerning the so-called trustee corporations planned for Russia (PEs 1177, 1209; see also Tr.10731). The Nazi policy against Russia, aiming, a.o., at the ruthless stripping of the cities in the South and shipment of their equipment to Germany was also known to him by the report of Farben's de Haas (PE 1175) of which a copy was sent to each member of the Vorstand. Defendant OSTER became himself the manager of one of the trustee corporations East, namely the Stickstoffwerke Ost G.m.b.H., the Nitrogen Corporation East (PE 2114).

#### France.

(12) In the case of French spoliation, defendant OSTER participated in the Commercial Committee meeting of 28/29 June 1940, dealing with the preparation of the "New Order" report (PE 818). His further attendance of meetings of both Farben's Vorstand and the Commercial Committee, and his knowledge of, and participation in, resolutions passed therein concerning France, are evidenced by PEs 369, 1177, and 1622. As a member of the Vorstand, he also received Farben's minutes on the Wiesbaden meeting with the French (PE 2195). In July 1942 OSTER wrote the defendant von Schnitzler that his duties with the Nitrogen Syndicate

would prevent him attending a Farben meeting. He stated:

"As you probably will have heard, approximately 60,000 tons of nitrogen shall be brought in to Germany from the occupied Western territories. All this week, we have been conferring daily with the competent authorities concerning the carrying through of this transaction" (PE 2115).

Norway.

(13) In his capacity as manager of the Nitrogen Syndicate, defendant OSTER was acquainted with, and particularly interested in, the Norwegian nitrogen concern Norsk Hydro. He took an active part in the steps taken by Farben, with respect to the light metal production for the German Wehrmacht to which the entire Norwegian economy was to be adapted. As to the individual measures contemplated and carried through in this connection, reference is made to the Preliminary Memorandum Brief (Part II, p.31 sequ.) and to this brief Part III-B, supra. The defenses interposed by Farben including defendant OSTER have also been handled in this brief Part III-B, supra, and in the individual brief on defendant Ilgner, Part VI-N.

(14) According to his testimony, defendant OSTER was on friendly terms with the board members of Norsk Hydro, among them with its deceased director general Aubert (Tr.10743). When, shortly after the occupation of Norway, the Germans planned the large scale use of Norwegian economy for the German Air Force, particularly in the light metal field, Aubert personally called on defendant OSTER, and asked him for help (Tr.10743). OSTER, in turn, saw Aubert at Oslo (PE 1209). Also at the request of Aubert (Tr.10743), he became a board member of Norsk Hydro (PE 1208; see also Tr.10743). Perhaps he wanted to believe that the Norwegians thought he was their real friend (compare Eriksen's statement, OSTER Exh.53). What the Norwegians could not know is that Farben, including defendant OSTER, wholeheartedly supported the Nazi program of exploiting Norwegian economy, particularly the facilities of Norsk Hydro, for the German Armed Forces, and that they were a full-fledged partner in this whole project. Defendant OSTER's plans, from

the outset, and his continued personal participation appear from  
PEs 1193, 1205, 1204, 1201, 1623, 1200, and 1211.

c. COUNT III - SLAVERY AND MASS MURDER

(15) Defendant OSTER, among other positions in Farben, was a member of the Vorstand and the Commercial Committee. He has been with Farben or one of its predecessor firms since 1905. He stated on examination that from 1917 until 1928 he was connected with the Leuna plant and worked principally on organization questions. He indicated in his testimony that he was charged with the then very difficult social and labor questions (Tr. 10666, 10667). This is mentioned to show the defendant OSTER's early knowledge of and familiarity with social and labor questions. Defendant OSTER was a member of the German Labor Front (Tr. 10672).

(16) That foreign workers were being taken from the occupied countries was, as indicated by his testimony, well known to defendant OSTER:

"... Mr. Lelong asked me to see to it that nitrogen factories should not lose their workers. Therefore, I went to the office of Mr. Michel and I intervened in his behalf as this was always done by the G.B. Chem." (Tr. 10726).

He later testified as to his knowledge that workers were forcibly recruited. In this connection he stated:

"... The fact that the recruitment of workers in France later on was not conducted on a voluntary basis . . . I learned during a conversation with Director General Lelong of the French Nitrogen Syndicate . . ."  
(Tr. 10751, 10752).

Defendant OSTER's comments on his direct experience and observation of foreign workers in Germany is of interest. He said:

"... One heard in the streets of Berlin and in the streetcars many workers who conversed in various languages. . . I must say, however, that many Russian women were working in the subway of Berlin, the city railway, and that the manner in which they were herded around by the supervisors was not a very friendly manner..." (Tr. 10751).



He stated that he was first informed about the recruitment of foreign workers for Farben in 1941 (Ibid).

(17) Defendant OSTER's statement that he wouldn't have known anything about forced employment if the Vorstand meetings had been his sole source of information is, to say the least, incomprehensible (Tr.10753). It is not natural for a man, particularly of OSTER's intelligence, to forget the interest in social welfare and labor matters which undoubtedly was generated during the years from 1917 to 1928 at Leuna where he dealt closely with these problems. If he did not hear any talk of these matters in the Vorstand, it must have been because he either turned a deaf ear or now does not want to recall it. The evidence in the case has indicated that the Vorstand did discuss labor questions (PE 1327). And time and again the questions of Farben's labor problems came before the Vorstand in a manner which could not be more significant and forcible to good businessmen, namely, the matter of approving millions of Reichsmarks for the housing of foreign workers, prisoners of war, etc. (PEs 1557, 1558 and 1318).

(18) The testimony of defendant ter Meer and others has indicated that the labor problem in Germany began in 1939 (Tr.7131). And even as early as 1938 Farben was employing a large number of foreigners, for example, in the Huels plant (Tr.7129). At this time the German Law for the Regulation of National Labor had been in effect since early 1934. A contemporaneous document in the form of a memorandum of a Commercial Committee meeting of May 1939 shows rather clearly that Farben was deciding what foreigners would be employed where. The pertinent paragraph of this document states:

"Employment of foreigners by the I.G.

There is agreement that in principle no foreigners shall be employed at the central agencies. So far as such foreigners are concerned who are to be trained in the use of our products, each case will be decided on its merits as to whether employment is possible." (PE 2111).

This meeting was attended by defendant OSTER together with defendants von Schnitzler, Haefliger, and Mann. Defendant von Schnitzler signed the minutes. This document would be relatively insignificant if it did not stem from the activities of the Commercial Committee of Farben where discussions on foreign workers would be least expected to occur. The document other than showing the specific involvement of the named defendants also shows that all these defendants in the course of their regular business inescapably came in touch with labor problems and had necessarily to concern themselves with such problems. In a practical sense this is certainly understandable because labor was one of the greatest, if not the most trying problems of the German economy from 1939 until the collapse. That is the reason it is so absurd for these defendants to deny knowledge of this or that matter pertaining to labor simply on the basis that local recruitment and care of labor did not come within their particular sphere of specific duty within Farben. The problem of labor cut broadly across the spheres and activities of all Vorstand members, including defendant OSTER.

#### 4. COUNT V - CONSPIRACY

(19) The comments made in the individual brief on the defendant Krauch, Part VI-B, sub-section "4. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant OSTER.

#### 5. Defenses Interposed by OSTER:

(a) The main defense of OSTER has been to retain the appearance of one of the less active Vorstand members whose field of conduct was particularly narrowly prescribed. But OSTER remained a Vorstand member of Farben throughout the twelve long years of the Nazi regime, observing the developments of Farben and of Germany during these years, making suggestions and reports to the Commercial Committee and to the Vorstand, and approving or ratifying the conduct of the Vorstand in forging Germany's war machine. Moreover, nitrogen

is always a key product in war preparation, and his responsibilities in this field extended even beyond Farben. In the Nitrogen Syndicate OSTER was "primus inter peres". The next most important director following OSTER was Hanser, also a Farben official.

(b) OSTER's defense that he changed from foreseeing "that Hitler intended to go to war" after 1933 to one who later discovered "that Hitler, in the field of foreign policy, really had a more clever hand than I have imagined" seems strange indeed. What was there in Hitler's policy from the time he assumed power in 1933 to March 1939, the invasion of Czechoslovakia ("the last straw"), which made OSTER believe that Hitler had a "clever hand" in foreign policy? We believe that OSTER, like all too many Germans, admired Hitler for obtaining certain territorial gains for Germany by the threat of military force even though this amounted to "criminal speculation" and inevitable war unless the victims of intended aggression gave way before force without resistance.



6. Proposed Findings of Fact with Respect to the Guilt of Heinrich OSTER.

The evidence has established beyond a reasonable doubt, the guilt of the defendant Heinrich OSTER on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant OSTER under each of these Counts, is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of OSTER, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) OSTER'S activities as one of the leading officials of Farben, including his activities as a member of the Vorstand from 1933 to 1945; as a leading commercial official in Farben during this period; and as Chief of the Nitrogen Sales Division of Farben during this period.

(b) OSTER'S activities in other positions, including his position as leading Manager of the Nitrogen Syndicate of Germany; and as Chief of the Nitrogen Department of the Economic Group Chemical Industry (1942 to 1945).

(c) OSTER'S activities carried on through the instrumentality of Farben, and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. OSTER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being

used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedoms. OSTER knew this for a number of reasons:

(a) OSTER knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to OSTER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in OSTER'S position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by OSTER and the timing of such activities, establish that OSTER knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by OSTER at which the aims of the Nazi leaders were expressed, and OSTER'S own statements on various occasions, are sufficient in and of themselves to establish that OSTER had the required state of mind.

(e) OSTER'S state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to OSTER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, OSTER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant OSTER.

(a) As a matter of law, even if the facts established that OSTER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that OSTER acted under duress or coercion in carrying out any of the activities specified above.

COUNT II

1. The defendant OSTER knowingly participated in plans to spoliage, and in spoliating, the chemical industries of occupied countries.

2. OSTER bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. OSTER played an especially active role in the exploitation and spoliation of Norway and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant OSTER.

(a) As a matter of law, even if the facts established that OSTER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that OSTER acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section A and C)

1. OSTER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. OSTER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.



4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of OSTER were, to OSTER'S knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten, and murdered.

5. OSTER continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant OSTER.

(a) As a matter of law, even if the facts established that OSTER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that OSTER acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.

2. OSTER participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.

3. OSTER knew that human beings in concentration camps were being exterminated by gassing.

4. OSTER either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

COUNT V

1. The foregoing activities were engaged in by the defendant OSTER in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedom.

2. The defendant OSTER, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.

T - KARL WURSTER

1. Charges in the Indictment. The defendant WURSTER is indicted under Count I (crimes against peace), Count II (plunder and spoliation constituting war crimes), Count III (slave labor constituting war crimes and crimes against humanity), and Count V (conspiracy to commit crimes against peace). The defendant took the stand in his own behalf (Tr. 10861, et seq.).

2. General Nature of the Evidence Supporting These Charges.

(a) WURSTER bears a major responsibility for the activities of Farben during the period from 1933 to 1945. Through the instrumentality of Farben, and through the positions which he held in the financial, industrial, and economical life of Germany, WURSTER bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers and prisoners of war as slaves and in the murderous use of the inmates of concentration camps as tools in the furtherance of the German war effort.

(b) These charges against the defendant WURSTER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this Final Brief (including the Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant WURSTER sets forth certain highlights in the activities of the defendant WURSTER and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.



3. WURSTER's Positions From 1933 to 1945. The positions the defendant WURSTER held in the financial, economic and political life of Germany from 1933 to 1945 are set forth in some detail in PEs 321 and 322 (see also testimony of WURSTER, Tr.10861, et seq.). The following positions held by WURSTER during these years are of special significance:

(a) WURSTER was a member of the Vorstand from 1 January 1938 to 1945, and a member of the Technical Committee (TEA) from 1938 to 1945 (Tr.10914). He was appointed Prokurist in 1934 and director of I.G.Farben in 1936.

(b) WURSTER became technical director of inorganic factories (Aluminum Chloride Factory, Sulphuric Acid Factory, Chloride Factory, Chlorine Factory) in 1930; in 1933 he was appointed manager of the Inorganic Department in Ludwigshafen; and in 1938 was made technical director of the works Ludwigshafen/Oppau.

(c) WURSTER was "Betriebsfuehrer" (Plant Leader) for the Ludwigshafen/Oppau plant from 1938 to 1945 and as such was in charge of the Social Department and had certain general responsibilities for labor welfare, in addition to his other duties.

(d) WURSTER became chairman of the Sulphur Sub-Committee in 1933 and joined the Chemicals Committee as a member in 1938.

(e) WURSTER was a member of the Verwaltungsrat of Degesch from the time of its formation until 1945.

(f) WURSTER was a member of the Aufsichtsrat of the Duisburger Kupferhuetten, Duisburg and of the Sueddeutsche Holzver-zuckerungswerke A.G., Regensburg.

(g) WURSTER was a Wehrwirtschaftsfuehrer (Military Economy Leader) from 1941 to 1945. He received the War Merit Cross Second Class in 1940 and the War Merit Cross First Class in 1942.

(h) WURSTER was a member of the NSDAP from 1938 to 1945 (Tr. 10914).

4. Certain Specific Activities of WURSTER During the Period 1933 to 1945.

The Tribunal is requested to frequently "cross-reference" its study of this individual brief on WURSTER with the year-by-year narrative under "Part VI-B Carl Krauch", pages 6 through 27, supra, since the individual brief on Krauch gives considerable material on the progression of rearmament in Germany and Farben's particular role at crucial points in this progression. Special reference is also made to Part VI, "J-Otto Ambros", since the interdependent operation of the entire Ludwigshafen/Coppau plant was a unified operation with merely a division of responsibility which could not have been maintained without close team work, cooperation full and mutual knowledge (See the cross examination of WURSTER, Tr.11072-11119).

a. COUNT I - CRIMES AGAINST THE PEACE

(1) Through WURSTER's activities in the field of sulphuric acid and inorganic chemistry for the period 1933 to 1938 and as Vorstand member as well from 1938 to 1945, WURSTER participated in, was informed of, and authorized, approved or ratified all major activities of Farben during the period from 1933 to 1945. In December 1931 the Farben Vorstand appointed WURSTER head of the inorganic department at Ludwigshafen (Tr.10863). In 1932, he was appointed deputy department chief of the Inorganic Department and in 1934 Department chief (Tr.10864). As head of this department WURSTER directed the production and research work (Tr.10866) in the aluminum chloride factory, sulphuric acid factory, chloride factory, and chlorine factory. From 1933 on WURSTER was chairman of the Sulphur Sub-Commission of Farben (Tr.10939). WURSTER testified that during the years 1933 to 1939 "I had real insight into the sulphuric acid and allied products because I was a representative of Farben in those fields and in that capacity I was honorary technical advisor for the Office of German Raw Materials and Synthetics, in the later Reich Office for Economic Development" (Tr. 10939 and 10941). WURSTER was also consulted by these offices for his technical advice in

the "projecting of new sulphuric acid production plants" (Tr.10941).

(2) A report prepared by the OKW concerning "Progress in the Supply of Chemical Raw Materials since seizure of Power in 1933, especially through the Four Year Plan" in discussing the demands of military economy states that "Up to now, sulphuric acid has been produced mainly by the roasting of pyrites, of which Germany can only cover about one fifth of its own demand. The remaining 4/5 were imported, mainly from Spain. In the chemical industry, sulphuric acid has a similar importance as iron has in the machine and construction industry; therefore, any progress in the raw material supply from indigenous sources is welcome from the point of view of military economy, especially as sulphuric acid has become indispensable in the production of powder and explosives, as well as in the mineral oil and fertilizer industry. Thus the German chemical industry took up plans which had been used during the World War because of the lack of raw materials, namely the production of sulphuric acid from German gypsum. One plant for the production of sulphuric acid also produces besides this the by-product cement, which is still very much in demand. In this connection, attention can be drawn to another very important raw material for the production of powder and explosives" (PE 602). See Elias testimony, (for example Tr.1370, 1371).

(3) According to the raw material needs of sulphuric acid thus described, Farben undertook as early as 1934, both the stockpiling of pyrites and the production of sulphuric acid from gypsum for the OKW. A top secret report of the OKW concerning "progress of work for economic mobilization on 30 September 1934" reports at page 10 of the document "Pyrites are the basic raw-material of sulphuric acid which is an indispensable chemical intermediate product. In Germany it can only be produced in the danger zone (Westphalia). The I.G. Farbenindustrie A.G. has been induced to complete the stockpiling of an additional amount of pyrites during this winter. Furthermore, the conversion of a large plant of this concern to the production of sulphuric acid from



gypsum is going to bring considerable relief in this respect" (PE 716). From 1934 on Farben submitted monthly reports to the Army Ordnance Office concerning the extent of its stockpiled pyrites (PE 749). WURSTER's testimony on his direct examination indicates that he was informed of the stockpiling of pyrites in the early years as well as the later years (Tr.10959, 10961). In December 1937, the Army Ordnance Office directed its top secret correspondence concerning stockpiling of pyrites to WURSTER (PE 749, page 8). (WURSTER also testified that in 1939 or 1940 he was a member of the Aufsichtsrat of Duisburger Kumpferhuetten which, according to his testimony, was a central purchasing department for pyrites for a number of sulphuric acid plants (Tr.10943). In discussing the construction of the gypsum plant referred to in the top secret report (PE 716) WURSTER testified "We considered the construction of this plant very carefully. The discussion about it began in 1934. It was decided in 1936 and it began to operate in 1938" (Tr.10957). WURSTER's advice was also sought by the authorities concerning the construction of gypsum plants by other firms besides Farben (Tr.10951). From 22 April 1936 to 12 January 1937 nearly 3 million marks were approved by TEA for new installations for sulphuric acid plants ( $SO_3$ ). These approvals were based on its operations within the Four Year Plan (PE 680, p.2, 7A).

(4) In April 1937, Farben concluded a contract with WIFO concerning the extension of a new Oleum plant in Wolfen and Doberitz. Oleum was an overconcentrated sulphuric acid used in explosives, pharmaceuticals, and dyestuffs (Tr.10956). The contract provided that the plants were to be used solely for "the purposes of the Wehrmacht, that is for the 'A-Fall'" (PE 601). Although WURSTER denies that he saw the contract he testified that he knew of this plant before the war (Tr.10956). In view of his position in the sulphuric acid field and his collaboration with the Reich authorities concerning this subject, it is hardly conceivable that he was uninformed of the terms of the contract concerning production solely for the Wehrmacht.

(5) In March 1937, WURSTER participated in the activities involving the setting up of the Orgacid Company which with the technical assistance of Farben, was set up to produce chemical warfare agents (PEs 624, 625). When the Army Ordnance first approached Farben in 1933, and asked them to undertake the production of poison gas, they declined to do so, Farben, prior to the war, could not be forced to do that. By 1935, however, Farben collaborated in this field, by building for Orgacid a plant at Amendorf which was to produce poison gas (PE 351). Although production of the final product was to be by Orgacid Company, Farben undertook "to give all chemical technical advice during building concerning the setting in motion and the running of the factory, including the experimental work (PE 351, supra). The new plant in Amendorf will be exclusively used for the production of dichloroethylsulphide (mustard gas)" (PE 351, supra); see Elias testimony, Tr. 1387; see also PE 622, letter of Farben, 10 June 1936, referring to the fact that Ludwigshafen is supporting the Amendorf plant producing mustard gas). In 1937, Farben increased its deliveries of chlorine for Amendorf production (PEs 624, 627). By 1937, Farben had already "mapped out" the extent of its participation in the chemical warfare field as being the production of the intermediate products for poison gas, (leaving it to another company to produce the final product); and the furnishing of the technical experience in the construction of the physical facilities for the production of poison gas (PE 628). The defendant WURSTER was especially informed of the needs of the explosives plants at Dynamit A.G. with respect to the necessary acids to produce explosives. In fact, his correspondence with Mueller of DAG indicates that he received monthly reports, in advance, of Dynamit A.G.'s needs with respect to sulphuric acid (PE 1940). In the related field involving nitrogen, he participated in conferences of the technical committees, and in December, 1937 (shortly after his correspondence with Mueller of DAG re sulphuric acid), he was informed of "a temporary shortage of nitric acid caused

by large orders from the factories producing explosives" (PE 127).

(6) The geographic position of Ludwigshafen which was located close to the French border, as well as Farben's Leverkusen and Hoechst plant, was a source of anxiety to the Wehrmacht. A report found in the files of Ministerial Director Buhl states that "as early as 1934 it became apparent that in view of the unsatisfactory situation of the Ludwigshafen, Hoechst, and Leverkusen plants in case of war and in consideration of the strong development of the plants in central Germany (gasoline, metals, spinning fibre), I.G. would have to open a new industrial site in the protected zone" (PE 556). In December 1937, WURSTER was informed by the War Ministry in a secret letter that "since Ludwigshafen is located in an endangered border region it is not feasible for reasons of military economy that iron pyrites should be stored there in quantities which exceed the normal storage quantities". WURSTER was also informed that storage of such pyrites should "be undertaken at another I.G. plant; but the Reich War Ministry had no misgivings with regard to carrying out the experiments in question in amounts over the normal storage not exceeding 10,000 tons at Ludwigshafen" (PE 749).

(7) In January of 1938, WURSTER was appointed member of the Farben Vorstand and was made technical director of Ludwigshafen and plant leader of Ludwigshafen/Oppau (Tr.10866). He also became a member of TEA at that time (Tr.10914). The defendant Krauch stated concerning WURSTER's responsibilities, "WURSTER, Ambros, and Mueller-Conradi, who were members of the Vorstand were the leaders of the plant directorate and were responsible for production planning and for the preparation of production estimates and credit requirements for Ludwigshafen/Oppau.... The plant directorate at Ludwigshafen met almost daily .... These meetings included the three Vorstand directors and other factory directors" (PE 338). (Reference is made to the section of this brief relating to Ambros for a discussion of activities of the Ludwigshafen/Oppau plant).



(8) WURSTER testified that the fact of rearmament was not a secret to him but he did not conclude from it that "Hitler was planning a war of aggression" (Tr.10923). WURSTER stated "I considered the purpose of the armament, I would say I had to assume that the government wanted to prepare to ward off foreign attacks" (Tr.10923). WURSTER made this same comment in his testimony when discussing mobilization and the evacuation plans which were in effect in Ludwigshafen since September 1938 (PE 268). He stated, "I know such questions were discussed and that the evacuation plan was a plan by means of which apparatus and raw materials on finished products could quickly be evacuated to more protected areas in the event of war. It is understandable that such consideration did not bring to our minds the idea of a war of aggression" (Tr.10923). WURSTER's activities during 1938 and until the attack on Poland reveals that he not only knew of the plans of aggression but that he accelerated his participation therein.

(9) On 2 March 1938, WURSTER attended the meeting of the Chemicals Committee together with Kuehne, Haeffliger and Buergin at which "a report is given of the reasons which have led to the starting of negotiations concerning an interest in the Skoda Werke-Wetzlar A.G., Vienna". The Chemical Committee agreed to a 51 1/2 participation of the Austrian group "on the condition that the agreement includes certain guarantees which make it impossible for I.G. Nobel to be outvoted in important questions" (PE 2077). It is to be noted that Haeffliger, who was present at this meeting, held 10 days before the military occupation of Austria was also present at the meeting of the Commercial Committee held on 11 March 1938, one day before the invasion of Austria (PEs 893; 2014; see sections of the Brief relating to defendants Haeffliger and Schmitz for discussion of this meeting). The same defendants who attended the March 2 meeting, namely, Kuehne, Haeffliger, Wurster and Buergin, attended another meeting of the Chemicals Committee, on 5 April 1938, shortly after the Nazis had seized Austria. At this meeting Haeffliger reported on his conferences in Vienna, and spoke of

negotiations "along the lines of I.G. ... to acquire a majority of approximately 70% .... the better prospects which the Anschluss has brought for the future of the enterprise .... " (PE 2078).

(10) As a plant manager WURSTER was continually in touch with the Vermittlungstelle W in connection with the working out of mobilization plans and he knew the purpose for which these plans were being effected. On 20 September 1938, WURSTER was informed by the Vermittlungstelle W of the transportation orders and deliveries to be taken in case of mobilization, and was instructed that "in the first days of mobilization, the Reichsbahn will accept goods for shipment only when transportation orders for them are presented", which orders were to be secured from the Military Economy Inspection Office (PE 223). For days later, on 24 September 1938, he was informed by the Vermittlungstelle W that "all plants essential to the war effort should enter on Form No. 6 appended to the mobilization task the average amount of transport required by them in case of mobilization" (PE 224). On 28 September 1938, as manager of the Ludwigshafen plant, the defendant was informed by the Farben Chemical Sales Committee to forward the forms to "complete the war production schedule for sub-contractors \* \* \* and to list the mobilization customers", and precise details with respect to production in the first eight weeks of mobilization are indicated (PE 225). The week before that, at the Vorstand meeting of 16 September 1938, he was present when mobilization questions regarding personnel and raw materials were discussed (PE 2121). He was also informed of the contribution made to the Sudeten German Free Corps a week prior to the Munich crisis (PE 834). On 27 September 1938, he participated in a meeting at Ludwigshafen where details of mobilization as regards the plant were discussed, such as air raid protection, blackout installations, transfer of housing settlements, etc." (PE 131).

(11) After the Munich crises, the mobilization plans at Ludwigshafen were improved and details as to the division of production between Ludwigshafen and other plants in the event of mobilization

were discussed (PE 229). By July, 1939, details regarding the "removal of important military products from Ludwigshafen and Oppau (to safer areas) were already agreed upon between Farben and the Reich Ministry of Economics (PE 231), and Farben advised the Reich officials that "we have, therefore, restricted ourselves to taking as a basis for our stockpiling considerations, the mobilization production plans which we submitted some time ago to the Plenipotentiary for Chemistry (PE 232). Krauch's Office, writing to General Thomas of the German High Command, on 25 September 1939, refers to the investigation which they made of "the two plants at Ludwigshafen and Oppau of I.G. Farben" and informed General Thomas that: "following your suggestion, the works have made for some time past a considerable effort to provide other accommodations in safe places for military economic products. For the past twelve months, there has been an evacuation plan in case of emergency which mainly provides for removal of all essential finished products, preliminary products, and raw materials, as well as for the transfer of the production plants. \*\*\* I have ascertained that the Ludwigshafen and Oppau plants have to a large extent switched over the production of important products to plants in central Germany on the strength of directives or suggestions received by them during the last few years of the military economic preparation period, for instance, among other, the Schkopau plant which was built in the transition period. Certain products are being prepared in the new Buna-Werk Huls as substitute products for Ludwigshafen and Oppau" (PE 748). The technical details of mobilization were so well worked out that upon instructions "to switch at once to the production outlined in the mobilization program, the minimum production fixed for Ludwigshafen and Oppau (went) into effect immediately with small changes" (PEs 264, 265). In fact, this mobilization program at Ludwigshafen was referred to by the High Command of the Armed Forces as the "MURSTER Program", as appears from a report of a conference between Krauch and the High Command of the Armed Forces which states that: "It is decided that the



task already assigned to the I.G. for Ludwigshafen shall stand, with slight changes for really more important products from the WURSTER Program" (PE 267, at page 3). (Compare PE 270 at page 3 where it is noted that Dr. Ungewitter of the Reich Group Chemistry, in discussing the mobilization task of Ludwigshafen and Oppau, declared that he was giving "Dr. WURSTER a free hand").

#### The War Years

(12) During the war years WURSTER fully utilized his expert knowledge in the various fields in furthering the successive wars of aggression. During those years WURSTER supervised the production of sulphuric acid of all German factories (PE 32). In July 1943, in accordance with an agreement with the Reich Ministry of Economics, WURSTER was appointed by Krauch as specialist to act as chief of technical committees of the Economic Group Chemical Industry in the fields of smoke screen materials, various inorganic products plants, and sulphuric acid and sulphur compounds department (PE 745; see also PE 463). In August 1944, WURSTER was appointed to enter the praesidium of the Economic Group Chemical Industry during the absence of ter Meer (PE 506). Further acts supporting successive aggressive wars are referred to under Counts II and II, below.

#### b. COUNT II - PLUNDER AND SPOILIATION

(13) In his dual capacity as a member of the Vorstand and of the Technical Committee (TEA), defendant WURSTER participated in, and authorized, Farben's spoliative activities all over Europe. The TEA considered, under a technical and financial aspect, Farben's over-all expansion during the years of Germany's belligerent and aggressive occupation of the territory of other people. All the acquisitions made by Farben in occupied and conquered territory since 1938 were reported upon and discussed in the TEA (PE 345). Though officially the TEA had no authority to make decisions, the Vorstand, in the words of defendant Krauch, "usually acted upon their recommendations" (PE 338). As to defendant WURSTER's participation in Farben's

spoliative activities in Poland, France (including Alsace-Lorraine) and Norway, the evidence can be summarized as follows:

Poland

(14) In the case of Poland, defendant WURSTER and defendant Buergin had inspected the Polish factories shortly after the collapse of Poland; defendant WURSTER Central Poland, defendant Buergin Southern Poland (PE 2120, No.2). They exchanged reports on their trips in which they analyzed in unmistakable terms the Polish plants and their value for Germany and German military purposes (PEs 1134, 1967). Defendant WURSTER's report (PE 1134) which fills more than 19 pages, leaves no doubt as to the wholesale spoliation planned at that time (compare our comment, Preliminary Memorandum Brief, No.16). As far as the Boruta plant is concerned which was later "purchased" by Farben from the Nazi authorities, WURSTER felt

"it would be expedient to dismantle the installations for picric acid, dynitronaphtaline and chlorotri-trophenol ..."

(PE 1134).

His report also shows the anti-Semitic spirit which, in accordance with Nazi ideology, caused defendant WURSTER to call the Jewish owners of Wola "gentlemen" in quotation marks - for no other reason than that their names indicated they were Jews.

(15) WURSTER's defense in the Polish case is mainly to the effect that:

(a) He made this trip at the request of Dr. Pohland of the Reich Office for Economic Development as a technical advisor, and not in his capacity as a representative of Farben interests (Tr. 10970).

He admitted, however, that this report was never sent to, nor meant for, the authorities on whose behalf Dr. Pohland made the trip (Tr.10970). This clearly indicates that his comprehensive report and his detailed suggestions were only meant for Farben itself.

(b) His trip was in no way connected with the acquisition of Polish plants by Farben. As far as he reported to the Vorstand, it concerned "particularly and exclusively" his impression of the effects

of air raids upon chemical plants (Tr.11095). He is rebutted by his very report which speaks for itself (PE 1134). He is also rebutted by the minutes of the Vorstand meeting (PE 2120), according to which both he and defendant Buergin reported

"on their general impressions as well as, particularly, on the technical condition and the economic situation of the plants inspected."

The minutes of this Vorstand meeting also show the concentrated and coordinated efforts made by Farben at that time to penetrate conquered Poland. While defendants WURSTER and Buergin reported on the chemical plants in Poland, defendant Buettfisch gave a supplementary report on Polish nitrogen plants and oil fields; defendant Oster on nitrogen consumption in "the Polish area of interest"; and defendant Joehne on the oxygen work in Posen. (As to the latter plant, compare PE 2120).

#### Norway

(16) In the case of Norway, WURSTER received the report on the Metal Sub-Commission meeting of 16 April 1940 (about a week after the assault on Norway) where Farben director Meyer-Kuester stated:

"The Norwegian economy will be mobilized to work for us". (PE 1192).

He also attended the Vorstand meeting of 5 February 1941 where, in

"a detailed discussion ... it was emphasized that I.G. has considerable interest in gaining a firm footing in Norway". (PE 1193).

As to the defenses interposed in the Norwegian case, see individual briefs on Ilgner and Haefliger (Part VI - N and VI - M, supra).

#### France (Francolor and Rhone-Poulenc)

(17) WURSTER attended the TEA meeting of 17 December 1940 where ter Meer, speaking of Francolor, reported that

"an agreement was reached with the French dyestuff group whereby we are assured of decisive influence on French dyestuff production" (PE 345).

He was, again, present at the Vorstand meeting of 10 July 1941 where von Schnitzler

"gave a report on the negotiations which had been successfully concluded with respect to Francolor". (PE 1177).



(18) He also attended the Vorstand meeting of 12 December 1940 where Mann reported on the license agreement with Rhone-Poulenc which was contemplated (and later on concluded) for a 50 years' period, and where Mann also stated:

"In addition, the Pharma Sparte will endeavor to obtain an interest in Rhone-Poulenc by investing capital".  
(PE 1270).

The Vorstand, members present, among them defendant WURSTER, "agreed to this line of action" (PE 1270).

(19) As far as spoliation in France (Francolor and Rhone-Poulenc cases) is concerned, a number of arguments have been advanced by other defendants which, to the extent that they are relevant have been discussed in the individual briefs on defendants von Schnitzler, ter Moor, Kugler, Ambros with respect to Francolor, and Mann with respect to Rhone-Poulenc.

#### France (Alsace-Lorraine)

(20) Defendant WURSTER, together with Jaehne, played a most active part in Farben's spoliating the oxygen plants in Alsace and Lorraine. Reference is being made to the Preliminary Memorandum Brief (Part II, 1.18 and to this brief Part VI-0 supra), concerning the individual responsibility of defendant Jaehne where the responsibility of defendants Jaehne and WURSTER has been outlined in detail.

(21) WURSTER's defense is conspicuous by his complete lack of veracity. As long as WURSTER did not know that the "File note on the conversation with the Chief of the Civil Administration in Metz on Tuesday, 8 October 1940, re: Oxygen Works Diedenhofen and Merlenbach; Acetylene Plant Diedenhofen" (PE 2119) was available to the prosecution, he tried to minimize his participation in this case of spoliation, and to explain away his conferences with Nazi authorities as having been just accidental (Tr.10966 seq. and affidavit Walter Decker, WURSTER Exh. 85). He stated that he was not a party to the negotiations concerning the Lorraine oxygen plants (Tr.11091). As a matter of fact, what he calls the "chance meeting" of 8 October 1940 which had taken

place "purely by accident" (Tr.11093), was "arranged" by Professor Luer from the Office of the Chief of Civil Administration Saarbruecken, and was preceded

"by conferences between the undersigned (Kalbfleisch from Farben's affiliate United Oxygen Works) and Director Dr. WURSTER from I.G. Ludwigshafen who had already contacted Gauleiter Buerckel about the Lorraine oxygen plants some time before". (PE 2119).

(22) What defendant von Schnitzler did in the case of the Polish dyestuff factories, WURSTER repeated in the case of the Western oxygen plants. He first contacted the Nazi authorities, among them Gauleiter Buerckel (PE 2119, p.1). He had a Farben employee appointed "trustee" (PE 2062, p.3, first paragraph). He pointed to the importance of the oxygen plants

"for the Todt organization which had announced greater requirements, as well as for the current supplying of industry and trade, and also of the Wehrmacht". (PE 2119, p.2).

He ignored the rightful owners, and acquired whatever rights he got - lease or property - from the Nazi government (PE 1228, 1235).

c. COUNT III - SLAVERY AND MASS MURDER

(23) Defendant WURSTER was a member of the Farben Vorstand, the TGA and the Plant Leader of Ludwigshafen/Oppau. He was a member of and attended the Plant Leaders Conferences which were of great importance in the determination of Farben policy in respect to labor matters and as a medium in permitting the exchange of experience among Farben plant leaders on the problems of workers, including foreigners, etc. (PE 394; Tr.10913). General reference is here made to Part IV of this Final Brief.

(24) The plant Ludwigshafen contributed to the opinion that the combing out of the chemical industries in France and Belgium was necessary and that the skilled workers thereby found be utilized in the German chemical industry (PE 1325). Groups of French workers were brought from the French Rhone-Poulenc firm to Ludwigshafen (PE 341). That these Rhone-Poulenc workers were involuntary is attested by the prosecution witness Jeki Frossard (PE 1352). Defendant WURSTER's interest

and initiative in the employment of forced categories of workers is shown as early as 31 January 1941 by the minutes of a Ludwigshafen management meeting. It was resolved that prisoners of war would be used on a larger scale and that more foreigners would be requested. WURSTER signed the minutes (PE 1335). The minutes of a Ludwigshafen management meeting, 27 March 1942, which were signed by defendant WURSTER, show that the first transport of Russian civilians had arrived from the Ukraine. Ludwigshafen records show that the percentage of foreign workers and P.W.'s employed was greater than the percentage of those classifications of workers employed by the entire chemical industry (PE 1344).

(25) The Ludwigshafen minutes of 26 February 1945, which were signed by WURSTER and copy sent to defendant ter Meer, show that Ludwigshafen had declined a request of the Regional Labor Office for 1500 workers to do entrenchment work. One of the reasons for the refusal was given as the decisive importance of Ludwigshafen's production for war (PE 1346).

(26) The treatment and attention accorded foreigners by Ludwigshafen is revealed by a sickness report which was discussed in the Ludwigshafen management meeting of 21 August 1941. The minutes of this meeting were signed by defendant WURSTER, and it is shown that the sickness among German workers averages 2.7 per cent, among foreigners around 6 per cent, and prisoners of war around 13 per cent (PE 1336). As of April 1943 the minutes of the Ludwigshafen management, which were signed by WURSTER and which show defendant von Knieriem in attendance, indicate that 85 per cent of the Eastern workers were employed in heavy and especially heavy work and that most of the remaining Eastern workers were employed in especially disagreeable work with acids or dirt (PE 1339). Circular letters of Ludwigshafen show that unexcused absence from work was to be punished by warning and fine and in case of repetition, withdrawal of meal tickets, and that Eastern laborers had to work at least 67 hours a week (PE 1340). Foreign workers who tried to escape were warned that if they tried to repeat they would be trans-



ferred to the Ludwigshafen plant's own labor education (disciplinary) camp (PE 1342). When Ludwigshafen's interests were served by improving the treatment of foreigners, such action was taken. The same document also shows generally how the Eastern workers fared in the Ludwigshafen camp for Russians (PE 1343). Details as to the treatment of foreign workers at Ludwigshafen, including brutalities, murder, etc., were given by the prosecution witness Marcel Grenot who was an involuntary worker at Ludwigshafen from May 1944 until April 1945 (PE 1347).

(27) Ludwigshafen in 1941 had 28,000 employees (Tr.10871). WURSTER on direct examination indicated that wherever he did not see all letters and mail pertaining to social welfare matters, pertinent portions of such were called to his attention by his personnel department (Tr.10874). He had previously stated on direct examination that he had the responsibility for social welfare matters at Ludwigshafen and was very aware of such responsibility (Tr.10869). In view of his legal responsibility under the Law for the Regulation of National Labor, which WURSTER testified he "felt" (Tr.10869, 10996), it is difficult to understand his testimony to the effect that he did not read the minutes of such important sub-committee meetings as the TEKO. TEKO minutes were forwarded to all members of the TRA, including defendant WURSTER. He stated, however, on direct examination that PE 1319, the minutes of a TEKO meeting, was an example of correspondence which did not come to his direct attention (Tr.10874). In commenting upon the amount of work incident to his position during the war, WURSTER stated:

".... There were weeks or months when we didn't even sleep at night ...." (Tr. 10911).

(28) Defendant WURSTER testified that at one time Ludwigshafen lost about 4,000 men to the Wehrmacht, and that this figure increased to over 8,000 during the course of the war (Tr.10972). According to WURSTER foreign workers first came into Ludwigshafen after the first campaign in France which was in August 1940 (Tr.10973). Later on he said, "I don't believe I need to speak about the employment of French voluntary workers" (Tr.10975). It is significant, however, that French

workers did not come into Ludwigshafen until after Germany could "influence" the labor offices and the laborers of France.

(29) Defendant WURSTER's testimony concerning dates, if not purposed to mislead, can at least be characterized as unusually careless for a man of science who by training should be more prone to a greater degree of exactness. For example, he stated on direct examination, that from a certain time on, that is about 1943, labor conscription was introduced in other countries (Tr.10977). It is a matter of record that compulsory labor was introduced in Poland on 26 October 1939 (PE 1298). It is also a matter of record that Sauckel's decree for the mobilization of labor was dated 7 May 1942 (PE 1301). That WURSTER knew of these measures need not be argued, because in the final analysis such measures were taken to fill the labor requirements of the German industrialists and the German Reich. In this same connection defendant WURSTER testified:

"The Eastern workers arrived only in the second half of 1943, and, therefore, the many children came only gradually afterwards." (Tr.11000).

(30) The minutes of a Ludwigshafen management meeting, 26 February 1945, signed by defendant WURSTER and with copy to defendant ter Meer, states Ludwigshafen's refusal for the release of 1500 laborers for entrenchment work, the reason for the refusal being the decisive importance of Ludwigshafen's production for war (PE 1346). In commenting on this WURSTER stated that the real reason was that he wanted to keep these people together in their own interests (Tr.10982). He also stated that because of the airraids and transportation difficulties the plant was almost completely crippled and that this was not known outside because the air war had reached such intensity that the highest party and Government authorities refused to come to Ludwigshafen anymore (Tr.10991, 10982). On cross examination WURSTER was unable to explain satisfactorily why it was to the interest of the foreigners to keep them at Ludwigshafen when because of the air attacks it was unsafe for the officials to come there (Tr.11075).

Neither did he explain satisfactorily how he could keep from the officials the fact that Ludwigshafen was almost completely crippled in February 1945 other than stating that these "characters" did not show up anymore (Ibid). In this same connection, defendant WURSTER had testified that after August 1943 Ludwigshafen was exposed constantly to the control and pressure of the State Control agencies. On cross examination he specified that he meant particularly the Labor Allocation authorities (Tr. 11073, 11074). It was the Regional Labor office which had requested the above-mentioned 1500 workers from Ludwigshafen, and it is submitted that if conditions because of air attacks had been as adverse as WURSTER would now have us believe them to be, he would have done either of the following: One, he would have ignored the Labor Office's request altogether rather than noting the refusal in the minutes and taking the trouble of sending a copy to Ter Meer; two, if he had been the humanitarian that he would now have us believe he was, he would have gladly released these workers and thus eliminated them from the awful air raid exposure and intensity that then existed there. It is likewise submitted that the reason given in the minutes for the refusal to release the 1500 workers are more compelling, that is:

"... The decisive importance of our production for the war, because such a release, after the already far-reaching reduction of our manpower would be bound to directly disturb production ..."  
(PE 1346).

(31) In connection with PE 1344 which is a Ludwigshafen chart showing that the percentage of foreigners and P.W.'s at Ludwigshafen was greater than those classifications employed by the entire chemical industry, WURSTER said on examination:

"This document is an example of a fact that an official control organization was put after us".  
(Tr. 10983).

If the Commission in this instance was after WURSTER, the letter which he wrote to one Dr. Kaphan enclosing these statistics indicates quite clearly that he rather enjoyed the position of having someone after him.



The letter starts:

"Pursuant to your visit in our plant ... which I  
remember with special gratitude ... "

And the letter closes:

"Hoping that in spite of the difficulties prevailing  
in Hannover, conditions for your family and your  
work will be all right, I remain with best regards  
and Heil Hitler

Yours very sincerely,  
/s/ WURSTER" (PE 1345).

In commenting upon why the Ludwigshafen figures for foreigners and P.W.'s were higher than the entire chemical industry, WURSTER directly pointed up the importance of Ludwigshafen's war production as he stated that peacetime industries for the production of perfume, detergents, etc. were not assigned any workers at all (Tr.10983). He also stated that the reason Ludwigshafen lost a lower number to the Wehrmacht than the whole chemical industry was that Ludwigshafen was a relatively old plant (Tr.10984). In another connection he had previously seemed to emphasize that Ludwigshafen had lost a great many workers to the Wehrmacht, beginning with 4,000 and increasing to 8,000 (Tr.10972). The evidence would therefore indicate that after Ludwigshafen's initial loss at one time of about 4,000 men to the Wehrmacht, WURSTER was somewhat successful in holding the Wehrmacht demands to more conservative figures by virtue of Ludwigshafen's importance in war production.

(32) Again this defendant when explaining PE 1339, which deals with the employment of 85% of Eastern workers in heavy and especially heavy work and the remainder in especially disagreeable work with acids or dirt, stated that this exhibit showed that there was another Commission to check on Ludwigshafen. He said they were suspected of not keeping the severe regulations in connection with the employment of Eastern workers (Tr. 10988). The exhibit itself indicates very clearly that the Eastern workers at Ludwigshafen were being employed in accordance with the regulations, and the pertinent paragraph ends with these words:

"Their release was therefore out of the  
question." (PE 1339)

Contrary to the inferences that the Eastern workers were forced upon defendant WURSTER, the evidence in the form of contemporaneous documents show rather clearly that the authorities would not have been adverse to taking these workers away from Ludwigshafen. In point on this matter are PEs 1339 and 2117. WURSTER stated on his direct examination:

"The idea of doing involuntary work seemed to me then, and now, something opposed to my whole philosophy of life". (Tr. 10978).

WURSTER's actions in respect to the continued employment of Eastern workers, who according to the evidence were the worst treated of all foreign workers, belies this statement. The fact is that WURSTER with little or no excuse could have had the Eastern workers removed from Ludwigshafen by the authorities. The fact that he did not do this indicates that he was interested in the practical results of their involuntary labor in achieving the maximum production at Ludwigshafen for war.

WURSTER stated:

"In practice, these Eastern workers were employed just like the Germans. That is the only way it can be in a chemical factory. No distinctions can be made". (Tr. 10988).

Compare this with PE 1339 concerning the employment of 85% of the Eastern workers in heavy and especially heavy work and the remainder in especially disagreeable work with acids or dirt.

(33) In commenting upon PE 1336 which deals with the relative high sickness rate of the foreign workers and prisoners of war compared to the German workers, WURSTER testified:

"What is laid down in these minutes is an exception". (Tr. 11000).

Then he went on to state that the physical condition of the people housed in barracks, including foreigners, was better than those living outside. This came about, he said, because:

"All the workers who came in from the outside had to be on the trip for hours. They were exposed to airraids." (Tr. 11001, our emphasis)

It is difficult to understand how all the workers who did not live in barracks had to spend hours on the trip to the plant. It is also difficult

to understand how such workers were exposed to airraids when the inference by WURSTER in this instance is that the workers living in barracks were not. The evidence is clear, however, as to the airraid exposure which existed at Ludwigshafen as, for example, the instance in June of 1944 when 100 P.W.'s were killed and approximately another 100 seriously wounded (Tr. 11031).

(34) In connection with PE 1340, defendant WURSTER stated that the document begins with the words, "We were given the order". An examination of the document which was introduced in evidence shows that it begins with the following:

"In pursuance of measures taken for maintaining the work discipline among the foreign workers employed with us, we have introduced a special work-sheet which will enable us to exercise control over foreign workers, who absent themselves without excuse, by temporarily cutting off their meal tickets." (Tr. 11009 and PE 1340).

Another example of the defendant's attempt to circumvent or confuse the significance of a contemporaneous document is indicated by his testimony in connection with PE 1346). This document deals with Ludwigshafen's refusal to release 1500 laborers to the Regional Labor Office. Another portion of the document which was not translated into English but which was made available in its entirety to the defense in German was dealt with and the attempt made to pass it off as unimportant (Tr. 11010).

(35) In connection with prisoners of war, defendant WURSTER testified that he had no jurisdiction over the camp where the prisoners of war were housed (Tr. 11048). He previously testified that he had to place the necessary barracks at the disposal of the Wehrmacht for the housing of prisoners of war (Tr. 11045). WURSTER's selection of a camp for the prisoners of war was apparently not a very happy one from the standpoint of their exposure to airraids. Although the death of approximately 100 prisoners of war from an airraid occurred in June of 1944, the witness Grenot indicated that the prisoners of war remained at Ludwigshafen until April 1945 (PE 1347).



This was not refuted by the defense. The terms of the Geneva Convention of 1929 state:

"Prisoners of war shall be evacuated within the shortest possible period after their capture, to depots located in a region far enough from the zone of combat for them to be out of danger."  
(Article 7)

And also:

"No prisoner may, at any time, be sent into a region where he might be exposed to the fire of the combat zone ..." (Article ...)

(36) Defendant WURSTER testified that P.W.'s were employed in transportation work, construction work, as well as in repair shops (Tr. 11052). This he classified as so-called auxiliary work. He also stated that under 10 per cent of the prisoners of war were employed in production work (Tr. 11054). This was done in accordance with the suitable skill of the P.W.'s (Tr. 11053). On cross-examination defendant WURSTER was not able to explain satisfactorily his testimony on direct as to the fact that the so-called labor disciplinary camp at Ludwigshafen died a natural death the latter part of 1943, in view of the fact that he had also testified that from August 1943 Ludwigshafen was exposed constantly to the control and pressure of the state control agencies (Tr. 11073, 11074). Nor was he able to explain precisely what purpose was served by the pictorial pamphlets of the foreign workers' camps, etc. at Ludwigshafen (WURSTER Exh. 7). He stated that such pamphlets were ~~not~~ used for propaganda and recruiting purposes, but to give the foreign workers a picture of their activity, of their dayrooms, etc. When asked why the foreigners already at Ludwigshafen needed to be apprised by publication of the conditions they could actually see, he stated that he could not describe the motives of individuals as to why these things were distributed to these people (Tr. 11076). The cross examination of the defendant on his Exh. 12, which was excerpts from the paper "Le Pont", clearly shows that this was a propaganda and collaborationist paper (Tr. 11077).

(37) In connection with the recruiting activities of Ludwigshafen's representatives in foreign countries, WURSTER stated that he did not concern himself personally about it but further indicated that he did not object. WURSTER added that the purpose of this travel was to recruit voluntary workers (Tr.11081). This testimony should be compared with the affidavit of Dr. Johann Simon who made two trips to Italy in behalf of the Hoechst plant. He stated that the purpose was to determine how many workers could be made available for allotment in Germany and that the result was given to the authorities who summoned the workers to appear for the purpose of a medical examination and for the signing of a labor contract. Simon, who was waived for cross examination, also said that during his presence in Italy there were representatives of other Farben plants entrusted with the same tasks, including five German representatives from Ludwigshafen (PE 1.000).

(38) In connection with PE 2116 on the reporting of foreigners who escaped or did not return from leave to the authorities, WURSTER testified that the police required this registration (Tr.11084). He had previously indicated almost immediately before that such information was picked up by the Labor Office on the basis of current reports concerning the number and type of employees in the plant, or inquiries made to the plant by the Labor Office after the receipt of such reports (Tr.11083). Along this same line, which is typical of WURSTER's testimony, he had stated on direct that only the Gestapo was competent to transfer people to the disciplinary camp. On cross examination he admitted, however, that such transfers were preceded by reports from the Ludwigshafen people (Tr.11074). On cross examination WURSTER was even reluctant to admit that Ludwigshafen applied for foreign workers during the war. He testified that they merely reported that they needed a certain amount of workers for meeting their production quota (Tr.11085). In this connection, PE 2118 was introduced which shows that the firm of Ludwigshafen applied for an additional staff of 300 workers including two doctors and two dentists. All pertinent speci-

fications were set forth such as the length of employment, working conditions, wages, and significantly under the heading "Special Qualifications", a thorough knowledge of the German language was required. This would certainly indicate that WURSTER knew foreign workers would be the result of such applications. The matter of feeding is also touched upon in this application. It states under para. 4:

"Accommodation will be provided in residential camps and will cost 3.50 RM per week with morning coffee". (Our emphasis)

(39) On the matter of sabotage defendant WURSTER testified that a refusal on his part to accept workers in order to complete a contract would have been termed sabotage and that it would have been considered very serious (Tr.11086). When asked to compare this attitude with the statements of his affiant Odenthal made in WURSTER Exh. 103, he stated that he did not know Odenthal. Odenthal stated in his affidavit that he refused in one instance to assign workers and was transferred to another station as a disciplinary measure. Then on another occasion he received an order from the OKH to recruit a large number of Lorrainian workers and allocate them to the armament industry. This he also refused to do and was called to account for sabotage (Ibid). It is evident from what did not happen to this particular affiant, who was an employee of the Reich, that the much talked about sabotage in connection with the assignment or acceptance of workers must not have been considered very serious. He is now president of the Regional Labor Office in Neustadt. The defense witness, Vljacic Predrag, stated on direct examination that:

(a) He was a medical man at prisoner of war camp V in Ludwigshafen from the beginning of 1944 until approximately the end of 1944 (Tr.11019).

(b) He did not himself work in the factory in Ludwigshafen (Tr.11020).

(c) Shortly after the bomb raid which killed 100 P.W.'s, German doctors with several people from the directorate arrived and worked until early in the morning while the airraid was still going on (Tr.11031).

(d) It did not take him longer than 15 minutes to walk approximately 2 kilometers (about 1½ miles) (Tr.11032).



(e) He was always informed about everything that happened in the hospital and remembered almost all of the death cases during the time he was there (Tr.11034).

In spite of all the things that this witness could vividly recall on the basis of his experience at Ludwigshafen as a prisoner of war, he could not remember the exact month in 1944 when he came to Ludwigshafen (Tr.11039). Finally, the testimony of the witness Predrag on direct concerning his conversation with Dr. Weiss, the former chief of the Ludwigshafen welfare department, about the matter of his proposed testimony is of interest. This was in January of 1946, and it is indicated that at that time Weiss was confident that the Farben officials would be tried. Predrag stated:

"Therefore I talked to Dr. Weiss and he told me that the charge of bad treatment of prisoners of war might be raised in that connection." (Tr.11037)

He later changed this testimony on cross examination by saying, in connection with his conversation with Weiss:

"I was told that the question of the treatment of prisoners of war might come up". (Tr.11043).

(40) In connection with the responsibility of WURSTER for the activities of Farben at I.G. Auschwitz, see Part III of the Preliminary Memorandum Brief and Part IV of this Brief. It should be noted that WURSTER was Plant Manager at Ludwigshafen, the plant which was the informal headquarters of I.G. Auschwitz. It was at I.G. Farben Ludwigshafen that Ambros had his office and Director Santo had his office. It will be recalled that Duerrfeld testified that most of the trips he made away from Auschwitz were to Ludwigshafen. Moreover, there was a constant interchange of employees between Ludwigshafen and I.G. Auschwitz.

(41) With respect to WURSTER's responsibility for supplying Cyclon-B Gas to the SS for mass exterminations, see Part III of the Preliminary Memorandum Brief and Part IV of this Brief; see also the sections of this Brief on the defendants Mann and Hoerlein. In this connection, it may be noted that the initiative for forming the firm

of Degesch came from WURSTER's Inorganic Department at Ludwigshafen. It was the Ludwigshafen insecticide calcid, manufactured by Ludwigshafen but sold by Degesch, which was the reason that Farben entered into the firm of Degesch (Tr. 11063). In addition T-gas, ventox, cartox, and NI-I were produced by Ludwigshafen and sold by Degesch (PE 1769).

d. COUNT V - CONSPIRACY

(42) The comments made in the individual brief on the defendant Krauch, Part VI-B, sub-section "D. COUNT V - CONSPIRACY", at pages 41-42, are also applicable to the defendant WURSTER.

5. Proposed Findings of Fact With Respect to the Guilt of KARL WURSTER.

The evidence has established beyond a reasonable doubt the guilt of the defendant Karl WURSTER on the charges contained in Counts I, II, III, and V of the Indictment filed in Case VI. The guilt of the defendant WURSTER under each of these Counts is predicated upon the following facts, which have been established by the proof:

Count I

1. The following activities of WURSTER during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) WURSTER's activities as one of the leading officials of Farben, including his activities as Farben's representative in the field of Sulphuric Acid and as chief of the Inorganic Department at Ludwigshafen from 1933 to 1938, as a member of the Vorstand from 1938 to 1945, as member of the TEA during this period and as Technical Director and Plant Leader of Ludwigshafen/Oppau.

(b) WURSTER's activities in other positions, including his supervision of the production of sulphuric acid of all German factories and his positions as technical advisor to the Office of German Raw Materials and Synthetics, the Reich Office for

Economic Development and the Economic Group Chemical Industry.

(c) WURSTER's activities carried on through the instrumentality of Farben, and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war, including substantial participation in the carrying out of the Four Year Plan; (2) furthering the military potential of Germany vis-a-vis other countries by other means, such as the stockpiling of strategic war materials, retarding production in other countries, and propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Counts II and III.

2. WURSTER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power could be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedoms. WURSTER knew this for a number of reasons:

(a) WURSTER knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to WURSTER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to a man in WURSTER's position than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried on by WURSTER and the timing of such activities, establish that WURSTER knew he was preparing for aggression.

(d) Specific instances, such as the meetings attended by WURSTER at which the aims of the Nazi leaders were expressed, and WURSTER'S own statements on various occasions, are sufficient in and of themselves



to establish that WURSTER had the required state of mind.

(e) WURSTER's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to WURSTER; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, WURSTER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant WURSTER.

(a) As a matter of law, even if the facts established that WURSTER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that WURSTER acted under duress or coercion in carrying out any of the activities specified above.

#### COUNT II

1. The defendant WURSTER knowingly participated in plans to spoliage, and in spoliating, the chemical industries of occupied countries.

2. WURSTER bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. WURSTER played an especially active role in the exploitation and spoliation of Poland and Alsace-Lorraine, and in planning plunder and spoliation in the Soviet Union.

3. The alleged defense of duress or coercion is not available to the defendant WURSTER.

(a) As a matter of law, even if the facts established that WURSTER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that WURSTER acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section A and C)

1. WURSTER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

2. The foreign workers, prisoners of war, and concentration camp inmates so used were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

3. WURSTER took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

4. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of WURSTER were, to WURSTER's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

5. WURSTER continued to take the initiative to obtain such foreign workers, prisoners of war, and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. The alleged defense of duress or coercion is not available to the defendant WURSTER.

(a) As a matter of law, even if the facts established that WURSTER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that WURSTER acted under duress or coercion in carrying out any of the activities specified above.

COUNT III  
(Section B)

1. Several millions of human beings were exterminated in concentration camps by means of gassing with Cyclon-B gas.
2. WURSTER participated in these crimes, through Farben and through Degesch, by virtue of the activities of these concerns in connection with manufacturing and supplying the Cyclon-B gas.
3. WURSTER knew that human beings in concentration camps were being exterminated by gassing.
4. WURSTER either knew that the aforementioned Cyclon-B gas was being used to carry out this program of mass extermination, or he deliberately closed his eyes to this fact under circumstances which required him to investigate.

COUNT V

1. The foregoing activities were engaged in by the defendant WURSTER in collaboration with the defendants who were members of the Vorstand of Farben, as part of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries for force their land, their property, and their personal freedom.
2. The defendant WURSTER, together with the defendants who were members of the Vorstand of Farben, having a knowledge of Hitler's aims, gave Hitler their cooperation and support and thus made themselves parties to the program of conquest which Hitler had initiated.



4. - Walter Duerrfeld

1. Charges in the Indictment. The defendant DUERRFELD is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation constituting War Crimes), Count III (Slave Labor constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to Commit Crimes against Peace).

2. General Nature of the Evidence Supporting these charges. The evidence relied upon by the Prosecution to support the charges against the defendant DUERRFELD consists of the evidence relating to his activities at I.G. Auschwitz, in Poland, during the period from 1941 to 1945. The general nature of this evidence, is amply covered in Part III of the Preliminary Memorandum Brief and Part IV of this Final Brief.

3. Duerrfeld's Positions from 1933 to 1945. DUERRFELD was the Chief Construction Engineer and Local Manager at I.G. Auschwitz during the period 1941 to 1945. (From 1932 to 1941 he had been a Senior Engineer at the Leuna works). DUERRFELD became a member of the Nazi Party in 1937.

4. Certain Specific Activities of Duerrfeld during the Period 1933 to 1945. (1) The individual responsibility of the defendant DUERRFELD for the crimes charged in this Indictment, is covered by the analysis of the evidence contained in Part III of the Preliminary Memorandum Brief, and Part IV of this Brief. This evidence, relating to the activities of DUERRFELD as Chief Construction Engineer and Local Manager at I.G. Auschwitz from 1941 to 1945, establishes beyond any reasonable doubt that DUERRFELD knowingly participated in the use at I.G. Auschwitz of foreign workers who were compelled by force to come to Germany and work in Germany; of persons who were inmates of concentration camps (including particularly the Auschwitz concentration camp) because of racial, political, or religious reasons; and of prisoners of war in work directly related to the war effort. The evidence establishes that DUERRFELD took the initiative in obtaining such foreign workers, concentration camp inmates and prisoners of war for work at I.G. Auschwitz. The evidence further establishes that the foreign workers, prisoners of war and concentration camp inmates used at I.G. Auschwitz under the supervision

and direction of DUERRFELD were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

(2) Although it is clear that the defendant DUERRFELD knew of the gassing of inmates at Birkenau and actually participated in the selection of the inmates sent to Birkenau for gassing, the evidence does not establish beyond a reasonable doubt the act of participation by the defendant DUERRFELD in supplying the Cyclon-B gas which was used (as charged in Count III of the Indictment).

(3) In connection with the charges under Count I, it may be noted that the Indictment charges that the acts and conduct set forth in Count III relating to slavery and mass murder were committed as an integral part of the commission of Crimes against Peace. In connection with the charges under Count III of the Indictment it should be especially noted that I.G. Auschwitz was in Poland.

(4) Merely to round out the picture of DUERRFELD at Auschwitz, it might be helpful to quote just a few excerpts from testimony of Defense and Prosecution witnesses concerning DUERRFELD's role.

(5) BRAUS, BUETEFISCH's deputy and a witness for the Defense has stated in an affidavit:

"Walter Duerrfeld and I hold fundamentally opposite views regarding all questions concerning the Party and SS. I have always opposed on principle the I.G.'s lending itself for the principle of inmates assignments.

"....Duerrfeld pressed for a higher labor or inmates' assignment....Walter Duerrfeld also procured inmates for other Upper Silesian enterprises as well as for Auschwitz..... He .... procured .... laborers from Auschwitz concentration camp for the Fuerstengrube.

".... Walter Duerrfeld was very ambitious. He dictated the working pace and he saw to it that there were no breaks...." (PE 1994)

(6) FAUST, chief engineer at I.G. Farben Auschwitz, and witness for the Defense, has stated in an affidavit:

"Walter Duerrfeld wanted to expand the Auschwitz I.G. plant as quickly as possible, tried very hard to obtain labor from the concentration camp right from the beginning.

"..... I recollect that in 1943 upon Walter Duerrfeld's suggestion two tents were pitched in Monowitz in which about 1,000 prisoners were billeted because of lack of

room. They lived in these tents up to about Christmas. In normal times such billets would have been unjustifiable." (PE 2349)

(7) Helmut SCHNEIDER, Deputy Chief of Personnel and Social Department, I.G. Auschwitz, and witness for the Defense, has stated in an affidavit:

"....Some of them made a lifeless impression, but in order to establish death I would have to be a doctor. I can't state definitely that Ambros and Duerrfeld saw a dead inmate..... I assume as certain that they were informed about it because this was a topic about which the whole plant talked." (Tr. 11428)

(8) DOEMING, I.G. Farben's Chief Barracks Engineer in Auschwitz, and witness for the Defense, has stated in an affidavit:

".... Toward the end of 1942 I.G. Auschwitz (Walter Duerrfeld) rejected the request made by the SS to provide additional sick bays in Monowitz." (PE 2348)

(9) The following quotation is from PE 2211, an affidavit of MURR, Engineer in I.G. Auschwitz. This affidavit was included with the documents offered in Prosecution Book 93 and then used during cross examination of the affiant by the Prosecution. On 10 May 1948, the Tribunal ruled: "Prosecution exhibit 2211 is stricken from rebuttal documents in Book 93 but this ruling has no application to the use of that document in cross examination before the Commission" (Tr. 14055). The quotation we now call to the Tribunal's attention is:

"I noticed in January 1942 that one of the prisoners (engineer) working for me was missing. I first made inquiries among his comrades; I was told that he had been taken away for the usual reason. In reply to my inquiries I was told by the Kapo: 'Himmelfahrts-kommando' (Ascension Command). I brought this incident to the attention of the gentlemen Walter Duerrfeld and Max Faust.... The I.G. management (Walter Duerrfeld) made representations to the concentration camp commander Hoess and asked him to prevent the disappearance of people who had been trained by us since it was extremely difficult... if we had to train new people continuously. After that the removal of prisoners was stopped for perhaps a few weeks but it was never discontinued altogether." (PE 2211 as modified by Tr. 14055)

(10) STERN, former inmate, stated:

"I remember quite well that once or twice about 8 a.m. the Leiter (manager) of I.G., Dr. Walter Duerrfeld, whom I knew well, came to Monowitz; he saw how Lager-fuehrer Schoettl examined several of the inmates to ascertain their physical condition. Questioned by Walter Duerrfeld what was going to happen to these



chosen inmates, Lagerfuhrer Schoettl, who was by the way one of the less radical SS men, remarked with a smile: 'They are obliged to take a joy ride to heaven.' It is quite impossible that Walter Duerrfeld was not aware of the meaning...." (PE 1470)

(11) TREISTER, former inmate, stated:

"Among other things, selections were held during the roll call in the morning. Often civilian employees of the I.G. Farben were present during these selections. I remember that Duerrfeld was sometimes there and I especially recall one incident during the morning roll call. Duerrfeld asked the camp leader Schoettl: 'Is there nothing at all to be utilized?' pointing at the undernourished prisoners. Schoettl felt the prisoners like cattle." (PE 1484)

(12) HERZOG, former inmate, stated:

"Several times I saw the Betriebsfuhrer of I.G. Auschwitz, Walter Duerrfeld, in the company of the SS camp managers in the inner camp at Monowitz.... The labor service chief, SS Oberscharfuhrer Stolten, often came to the Monowitz camp accompanied by Dr. Duerrfeld and other I.G. Farben officials.... One day in the winter of 1942/43, when the Buna camp (Monowitz) contained about 3,000 to 3,500 prisoners, Hauptsturmfuhrer Schwarz, who was accompanied by Walter Duerrfeld and some SS men from the camp administration, ordered the prisoners to fall in five deep and march past him. Hauptsturmfuhrer Schwarz ordered all those prisoners to fall out who seemed in any way unfit. They were surrounded by SS men and their numbers were taken down. Here and there Walter Duerrfeld made inquiries about specialized professions, such as electricians or grinders. That time about 1,000 - 2,000 were selected and sent at once to the gas chambers." (PE 1468)

Under cross-examination by defense counsel, the witness described the above occasion as a "selection of prisoners to be sent to the gas chamber." (Tr.3629)

#### PROPOSED FINDINGS OF FACT

The guilt of the defendant DUERRFELD under Counts I, II, III and V of the Indictment, is predicated upon the following facts, which have been established by the proof.

1. DUERRFELD's activities as Chief Construction Engineer and Local Manager at I.G. Auschwitz in Poland during the period from 1941 to 1945.
2. DUERRFELD knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany, and of persons who were inmates of concentration camps because

of racial, political or religious reasons; and in the use of prisoners of war in the armament industry and industries directly related to the war effort.

3. The foreign workers, prisoners of war, and concentration camp inmates so used, were ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

4. DUERRFELD took the initiative in obtaining for use in Farben plants foreign workers who had been compelled by force to come to Germany and work in Germany; in obtaining persons who were inmates of concentration camps because of racial, political or religious reasons for use as slaves in Farben plants; and in obtaining prisoners of war for use in the armament industry and industries directly related to the war effort.

5. The foreign workers, prisoners of war, and concentration camp inmates obtained through the initiative of DUERRFELD were, to DUERRFELD's knowledge, ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

6. DUERRFELD continued to take the initiative to obtain such foreign workers, prisoners of war and concentration camp inmates, knowing that they were being ill-fed, ill-clothed, ill-housed, mistreated, beaten and murdered.

7. The alleged defense of duress or coercion is not available to the defendant DUERRFELD.

(a) As a matter of law, even if the facts established that DUERRFELD acted under duress or coercion, this would be no defense.

(b) The facts do not establish that DUERRFELD acted under duress or coercion in carrying out any of the activities specified above.

1. Charges in the Indictment. The defendant GATTINEAU is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation, constituting War Crimes), Count III (Slave Labor constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to Commit Crimes against Peace). The defendant took the stand on his own behalf (Tr. 12089, et seq.).

2. General Nature of the Evidence Supporting These Charges. GATTINEAU was not a Vorstand member of Farben. Therefore, his responsibility for activities committed through the instrumentality of Farben is based directly upon certain specific activities in which he played a leading role and upon certain activities in which he participated substantially, thereby supporting and ratifying certain conduct committed through the instrumentality of Farben or otherwise. Notwithstanding the fact that GATTINEAU was not a member of the Vorstand, the prosecution, upon reviewing all the evidence, maintains that GATTINEAU bears a major responsibility for preparing Germany for aggression and for participating in this aggression once it had begun. During the time of the preparation of Germany for aggressive war, GATTINEAU played a leading role in promoting and maintaining cooperation between Farben and the Nazi government and leaders of the Nazi party. As chief of Farben's Economic Department (WIPO) from 1932 through the end of 1938, GATTINEAU discharged important responsibilities in maintaining or coordinating important negotiations for Farben with the Nazi government. GATTINEAU joined with other leaders of Farben in harnessing important sections of the economy of Austria and Czechoslovakia to the Four Year Plan and the rearmament of Germany after aggressive acts against Austria and Czechoslovakia but before Germany's aggressive policy finally broke into actual war in September 1939. And after aggression was underway, the defendant GATTINEAU was made managing director of Dynamit Nobel, Pressburg, in occupied



Czechoslovakia, and necessarily bears responsibility for the exploitation of Czechoslovakia on behalf of the German war machine during the war years. A summary of specific activities contained in this section of the brief relating specifically to the defendant GATTINEAU sets forth certain selected highlights in the activities of the defendant GATTINEAU and shows the general nature of the fields of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

(3) GATTINEAU's Positions From 1933 to 1945. The positions which GATTINEAU held in the financial, industrial, economic and political life of Germany from 1933 to 1945 are set forth in PE 291 and PE 28 (see also testimony of GATTINEAU on direct examination, Tr. 1246, 1247). The following positions held by GATTINEAU during these years are of special significance:

(1) GATTINEAU was Prokurist of Farben from 1932 to 1938 and a director from 1938 to 1945.

(2) From 1932 to the end of 1938 GATTINEAU was chief of the Economic Policy Department (WIPO) of Farben's Berlin NW 7 and from 1939 to 1945 GATTINEAU was Managing Director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia; from 1940 to 1945 he was Managing Director of Chemische Industrie A.G., Pressburg, Czechoslovakia and also a member of the Verwaltungsrat of various Farben affiliates in Czechoslovakia, Yugoslavia, Roumania, and Hungary.

(3) From 1932 to 1935 GATTINEAU participated in meetings of the Working Committee of Farben; and in 1937 and 1938 GATTINEAU participated regularly in Commercial Committee meetings; from the beginning of 1939 through 1945 GATTINEAU participated occasionally in Commercial Committee meetings. Between 1934 and the beginning of 1939 GATTINEAU participated regularly in the weekly meetings of Farben Berlin NW 7 office.

(4) From 1933 to 1945 GATTINEAU was a member of the Southeast Europe Committee of Farben.

(5) From 1933 to 1935 GATTINEAU was a member of the Advertising Council of German Economy of the Ministry of Propaganda. During 1933 and 1934 GATTINEAU was a member of the Circle of Economic Advisors of the Ministry of Propaganda.

(6) In 1933 GATTINEAU was SA Colonel for special tasks on the supreme leadership staff of the SA. In 1935 GATTINEAU became a member of the Nazi Party.

4. Certain Specific Activities of GATTINEAU during the Period 1933 to 1945. To place the specific activities outlined below in fuller context with the progression of events in Hitler's Germany and in Farben, the Tribunal is particularly requested to frequently "cross-reference" its study of this individual brief with the year-by-year narrative under "B - CARL KRAUCH" and "N - MAX ILGNER", supra. ILGNER was GATTINEAU's principal superior for most of the period before 1939.

(1) In June 1932, the defendant GATTINEAU, then Farben's press chief, at the request of Bosch arranged for a visit to Hitler with Farben's Leuna chief, the defendant BUETEFISCH. An account of that visit is recorded in a report entitled "25 Years Leuna Works" which was printed by the Leuna Plant in 1941 (FE 1977, pp. 14, 15). BUETEFISCH said concerning that meeting that after 2½ hours discussion Hitler concluded the meeting by saying "I have to leave the technical execution in your hands. That is your job. But our road is the same and I hope that soon this road will lead to a tremendous strengthening of our Germany." BUETEFISCH also reported that "For years I had to keep to myself the prospects which the Fuehrer held out in detail at that time. Already then they covered the whole program of the Four Year Plan. In later years nothing was changed in the basic outline which was shown at that time. We drove back proudly conscious of having been given deep insight into history in the making and having had confirmation from the future leader of the German people that our aims were right and our work was of the greatest

importance" (PE 1977, p.15) (see affidavit of GATTINEAU in which he describes the purpose of the visit as "to clarify the position of the Nazi Party regarding the question of German Gasoline Production" (PE 28); and compare statement of GATTINEAU on cross-examination concerning the purpose of the visit to Hitler, "as far as I remember I said, 'in order to find out how Hitler was thinking about gasoline production'" (Tr. 12289; see also PEs 29 and 30).

(2) As a result of the conference of GATTINEAU and BUETEFISCH with Hitler Farben decided to maintain Leuna in "full operation even if this entails sacrifice" (PE 1977). After the Nazi seizure of power Farben immediately began discussions in 1933 with the Nazi Government officials concerning the production of synthetic gasoline. In the Spring of 1933 Farben started large scale production of synthetic gasoline at Leuna (PE 541, and also PE 542). See Part VI, "I - HEINRICH BUETEFISCH" for discussion of the evidence of the activities of Farben and its negotiations with the Nazi Government in carrying out the synthetic fuel program and for discussion of the evidence establishing the fact that it was clear already in 1933 that production of synthetic gasoline as well as production of synthetic nitrogen was considered in the light of preparations for "A-Fall".

(3) In September of 1932, shortly after the conference with Hitler by BUETEFISCH and GATTINEAU, the Central Committee of Farben formed an Economic Policy Department (WIPO) headed by GATTINEAU. The department consisted of a Press Bureau, an Economic Policy Bureau, and a Commercial Bureau. This department was to be directly subordinate to the Central Committee and its "aim was to concentrate in one place all interests of the I.G. relating to economic policy". It was decided that "GATTINEAU must be informed before discussions with authorities, associations and ministries take place on the question of economic



policy so that the Economic Policy Bureau is at all times in a position to see that I.G. acts uniformly when dealing with outside authorities" (GATTINEAU Exh. 27; see also PE 377; PE 842). GATTINEAU stated in his affidavit (PE 26) concerning his appointment as chief of the Economic Policy Department, that "I was made chief of WIPO because, apart from my knowledge in the field of commercial policy and by reason of my journalistic activity and acquaintance, I had the necessary contacts with the Government and the agencies of the Party and thus I could render I.G. good services as liaison man. In the efforts of the management of I.G. to establish contact with the new men in power, my contacts and old friendships - which in part went back to the time of my membership in the Bund Oberland, of which I had been a member since 1923 - proved extremely useful. From this period, for instance, I know Hinkel (Kulturwarter of the NSDAP - administrator for matters pertaining to culture -) who established contacts for me with the press, Prof. Haushofer, who among others presented me to Hess, the deputy of the Fuehrer...."

(4) GATTINEAU denied in his direct examination that he had contacts with the Nazi Party which were used by Farben. The facts are undisputed that in 1923 GATTINEAU joined the Bund Oberland, the year in which it participated in the "Munich Putsch" (Tr. 12161, 12162); that through his contacts with the party from that date, he arranged for the 1932 visit to Hitler (Tr. 12197, 12290, 12291); that in the Summer of 1933 GATTINEAU received the title of honorary SA leader for special missions on the supreme leadership staff of the Storm Troops (SA); and that he accepted this appointment on the advice of Bosch (Tr. 12171, see also PE 28); that GATTINEAU was instrumental in making substantial contributions to the SA on behalf of Farben (PE 26; see also Tr. 12170, PE 378), including purchasing of the Brown House for the SA in Munich by Farben (Tr. 12172); that

he was able through his contacts with party leaders, to join the Nazi Party in 1935 during the period when membership (Tr. 12181, 12293) was closed; that before 1934 GATTINEAU knew the top ranking SA leaders (Tr. 12292) knew leading people of the SS, including Kranebus and Keppler, whom he knew as early as 1934, and the SS Nazi Party leaders of Austria (Tr. 12292); and that GATTINEAU's contacts with Nazi leaders was used in his activities for Farben (see Tr. 12290 to 12293 and Tr. 12157; see also PE 28).

(5) From 1932, after GATTINEAU's appointment to head the Economic Political Department, until at least 1935, GATTINEAU participated in the meetings of the Working Committee of Farben (Tr. 1246, 1247). There were only two other non-Vorstand members who participated in these meetings. One of them was Kurt Duisberg, son of Geheimrat Duisberg, and the other was the defendant ILGNER who became Vorstand member in 1934 (Tr. 12291). As Farben's representative in negotiations with authorities, GATTINEAU participated in or was kept informed of Farben's activities in preparation for the aggressive war program. In October of 1934 GATTINEAU attended a meeting of the Technical Committee (TEA) at which among other things air raid precaution measures were discussed (PE 182). In October of that year GATTINEAU was given a detailed report by Buhl of his negotiations with the Reich Ministry of Economics concerning Farben's expansion of its aluminum works in Bitterfeld (PE 1815). In September of 1935 GATTINEAU was informed of a conference held at the I.G. Oppau plant with representatives of the Ministry of Economics at which the Ministry of Economics requested that Farben transfer the Oppau plant from the west to central Germany, that it attempt to produce 2000 tons of nickel a year, and that Farben stockpile as large a supply of nickel ore in Germany as possible. GATTINEAU was informed that the Farben representatives at this conference assured the

Ministry of Economics that everything possible would be done in order to obtain larger allocation of nickel from the International Nickel Company (PE 720).

(6) As Farben's representative, GATTINEAU, was called in to service the Nazi propaganda machine. In 1933, GATTINEAU, as head of the Press office of Farben, was called upon by Funk, then State Secretary of the Propaganda Ministry, to join the Circle of Economic Advisors of the Propaganda Ministry to assist as an expert on questions pertaining to foreign countries (Tr. 12148). GATTINEAU was assigned the Scandinavian countries (Tr. p. 9384). In describing the tasks of this committee, GATTINEAU stated on direct examination: "I held the point of view that the attitude of other countries towards Germany could be improved only by frankly, without reservation, putting our cards on the table and showing other countries everything that was going on in Germany" (Tr. 12149). GATTINEAU states in his affidavit (PE 26) that the function of the circle was to "see to it that the situation in Germany would be seen in a more favorable light" (see also PE 378, Tr. 2967, 2968; PE 772). In connection with his activities in the Circle of Experts, GATTINEAU accompanied ILGNER on his trip to Scandinavia and the Baltic countries (PE 378). In October 1933, GATTINEAU became a member of the Publicity Board of German Economy of the Propaganda Ministry (PE 62). (The organization has also been translated as the "Advertising Council of the German Economy".) Like other agencies of Goebbels Ministry which were set up to control and influence the press, radio, films, publishing firms etc., this was another instrument of the Nazi Government to unite the nation in support of their policies. Goebbels, who addressed the meeting stated "the Publicity Board is an educational instrument with which we want to convince the German people of the correctness and of the aims of the German trade" (PE 62). (See Part VI, "R - WILHELM MANN" for analysis of defense contentions concerning defendants activities on the Publicity Board).



GATTINEAU was a member of the Publicity Board until 1945. Propaganda projects of Nazi Party or Government officials abroad were investigated and approved by GATTINEAU before being sponsored or supported by Farben's agents abroad (PEs 788 and 800).

(7) In August of 1937 the Commercial Committee was newly re-organized to meet problems, the foremost of which was the boosting of exports in connection with the Four Year Plan (PE 361). In September 1937, the Commercial Committee decided that:

"In view of the problems accumulating in connection with the Four Year Plan, the armament, export, and the foreign currency situation, it appears absolutely essential that all agencies of the I.G. maintain closest contact with the Political Economic Department with regard to conferences on negotiations with authorities, associations, and political organizations, so as to assure a uniform attitude of I.G. as to all these questions. Dr. von SCHNITZLER will report on this matter to the Central Committee. In this connection the question of collaboration between the political Economic Department and the Vermittlungsstelle W was discussed" (PE 363).

At the same meeting SCHNITZLER reported on the Mobilization Question and requested ILGNER to arrange a talk together with GATTINEAU at the Reich Ministry of Economics (PE 361). Pursuant to this decision GATTINEAU made arrangements with the Reich Ministry of Economy for his office to handle the mobilization program for the commercial sector of Farben (PE 199; see also PE 250 and PE 200, for further evidence concerning GATTINEAU's role in mobilization activities). GATTINEAU was present at the Commercial Committee meeting of 24 May 1938, at which Frank-Fahle reported concerning the conference on Czechoslovakia which had taken place on 17 May 1938 (PE 1612). This was shortly after GATTINEAU's return from a trip to South Africa on which he was sent as a member of an industrial commission of the Reich Group Industry to investigate the possibilities of increasing German trade with South Africa and Northern and Southern Rhodesia (Tr. 12157).

(8) During 1937 GATTINEAU's office was responsible for transmitting information to various Reich officials including the Intelligence Service of the Wehrmacht. Noack, a member of WFO who

had been given responsibility by GATTINEAU to handle the mobilization questions, stated that in 1937 material was earmarked for Major Bloch of the Intelligence Department of the Wehrmacht by GATTINEAU or his deputy Terhaar when distributing the mail. GATTINEAU also arranged for Bloch to see Farben representatives from abroad who came to Germany (PE 840; see also PE 841). In December of 1937, GATTINEAU arranged for Keppler of the Foreign Office to receive reports from Farben representative Neubacher (PE 428). Neubacher had received a special mission in Czechoslovakia through GATTINEAU (PE 900). In the middle of 1938, GATTINEAU requested the defendant VON DEL HEYDE, who was Farben's Abwehr agent, to contact Major Bloch and arrange for transmittal of reports from abroad to Major Bloch (Tr. 12410). At the same time arrangements were made to have I.G. representatives coming to Germany from abroad report to Bloch (PE 164). GATTINEAU testified that he knew Bloch since 1932 (Tr. 12216).

(9) GATTINEAU was present at a number of Commercial Committee meetings which discussed Farben's activities and interests in Austria and Czechoslovakia (PE 1069). He was present at the Commercial Committee meetings of May, October, and November 1938, at which discussions and plans concerning Farben's activities in Austria and Czechoslovakia were made. On 16 June 1939 GATTINEAU and the defendant KUGLER reported to the Commercial Committee concerning the joint erection by DAG Pressburg and the Prager Verein of a cellulose factory in Pressburg. In the "Bible" prepared by KRAUCH on 27 May 1936 which set out the projects for the Four Year Plan, he lists at page 3(E) the expansion program in cellulose (See Part II (A) footnote 20 of this Brief; see also the discussion on Farben's relationship to DAG in Part 2(E) of this Brief.

(10) In December 1938, GATTINEAU's deputy chief of WEPO, Terhaar, submitted to the Reich Economic Ministry a summary of the facts and problems in connection with Farben's purchase of the

Austrian participation of Dynamit Nobel, Pressburg, Terhaar  
stated in this report:

"After the Anschluss of Austria, the harnessing of the Austrian Economy to the Four Year Plan and the rearmament program brought with it the necessity of introducing a new order into the Austrian Chemical Industry. This will be done by amalgamating Pulverfabrik Skoda-Wetzler with its subsidiary company Wagenmann, Seybel & Co. and Carbidwerk Deutsch-Matrei A.G. with its subsidiary companies Oesterreichische Kunstduenger, Schwefelsaeure und Chemische Fabrik A.G. and Continentale Gesellschaft fuer angewandte Elektricitast for purposes of organization and production. In addition, the Austrian Dynamit Nobel A.G. is to be brought into the German program as a whole in close cooperation with Dynamit A.G. Troisdorf" (PE 1096) (our emphasis).

GATTINEAU played a leading role in the activities of Farben which led to this harnessing of the Austrian Economy to the Four Year Plan and the rearmament program described by Terhaar (PE 1070, 1069, 1075, 1092, 1093, 1099, 1103; see also Preliminary Memorandum Brief, Part II, for details of Farben's activities in Austria and Czechoslovakia). On May 16, 1938, GATTINEAU was "provisionally nominated for the execution of the necessary measures and for liaison with Vienna authorities". Members of the Commercial Committee were informed that they were not to take any measures regarding personnel and organization in Austria "without first conferring with GATTINEAU" until the defendant ILGNER had submitted a detailed report (PE 1075; see also PE 1070). ILGNER's Deputy Krueger and Noack, a former member of GATTINEAU's staff in WIPO, stated that GATTINEAU was selected for this task because "GATTINEAU's connections with the party made him particularly suitable for negotiations" (PE 1105, 1064). At the May 24, 1938 Commercial Committee meeting attended by the defendant GATTINEAU, ILGNER reported on the measures taken in Austria and GATTINEAU's appointment as a provisional plenipotentiary for Austria was confirmed. This was the meeting at which Frank-Fahle reported on the May 17th conference on Czechoslovakia and Farben decided to employ "Sudeten Germans for the purpose of training them with I.G. in order to build up reserves to be employed later in Czechoslovakia" (PE 1069). GATTINEAU also attended the Commercial Committee meetings of 7 October 1938 at which the con-



clusion of the Austrian negotiations were discussed and of 11 November 1938 at which the formation of Donau-Chemie was discussed (PE 1069). On the 14th of October 1938 GATTINEAU signed the "oral contract" for transfer of Deutsch-Matrei (PE 1082, 1083).

(11) In December of 1938, the letter referred to in the last paragraph, Terhaar not noted that the Austrian Chemical Industry was harnessed to the Four Year Plan and rearmament, but he also stated that the foreign currency department of the Czechoslovakia National Bank had refused to sanction the contract for the purchase by Farben of DAG, Pressburg's Austrian participations. He requested that the matter be taken up in the negotiations between the German and Czech government with a view to having the contract sanctioned by the Czechs as well. GATTINEAU received a copy of this letter (PE 1096). In January 1939, GATTINEAU authorized Meyer-Wegelin to represent Farben in a community of interest agreement between Farben, Skoda and Deutsch Matrei (PE 1099). The agreement provided in part that,

"The contracting parties shall conduct their business in such a way that it is possible for each and all of the contracting parties to fulfil the tasks set them by the incorporation of Austria into the German Reich and by the Four Year Plan as rapidly and with as great a regard for the economy as possible..." (PE 1099).

On 24 June 1939 (after all of Czechoslovakia was subjected to aggression), Meyer-Wegelin was able to report to Farben's Southeast Committee that GATTINEAU had succeeded in obtaining sanction by the Slovak Government of the sale of DAG's Austrian participations to Farben (PE 1103), thus completing the steps necessary to harness the Austrian Economy in the interest of the Four Year Plan and Rearmament of the Reich.

#### b. COUNT II - PLUNDER AND SPOILIATION

(12) GATTINEAU played a major role in the activities charged in the Indictment under Count II as plunder and spoliation in Austria and Czechoslovakia. GATTINEAU also participated in a special meeting of the Commercial Committee of June 1940 at which Farben discussed its plans for the New Order (PE 818). He also attended the Commercial

Committee meeting of 10 December 1940 when MAHN reported on his plans and successes in connection with Rhone-Poulenc (PE 1622). Although the Tribunal has ruled that the activities charged in Count II with respect to Austria and Czechoslovakia do not constitute in and of themselves war crimes or crimes against humanity, GATTINEAU continued to participate in these activities with his knowledge of and giving his approval to other activities carried on by Farben in other countries, thus making himself a party to the overall program of Farben to spoliolate chemical industries throughout Europe. (See the certificate concerning GATTINEAU's positions, PE 291, items 10 thru 26, all of which indicate membership in the governing bodies of enterprises in countries occupied by Germany or subject to Germany's dominance during the years of aggression. GATTINEAU held no position on the governing board of any enterprise in Germany itself and he held no position on the governing board of any corporation abroad until Germany engaged in its aggressive acts and aggressive wars - Tr. 12300 and PE 291).

c. COUNT III - SLAVE LABOR AND MASS MURDER

(13) Upon reviewing all the evidence, the prosecution is not satisfied that it has established beyond a reasonable doubt the guilt of the defendant GATTINEAU for the charges in Count III.

d. COUNT V - CONSPIRACY

(14) GATTINEAU is also charged under Count V of the Indictment for participating in the conspiracy to commit crimes against peace. The case against GATTINEAU in this respect is substantially different from that of the 19 members who were members of the Vorstand. The prosecution contends, however, that the evidence concerning GATTINEAU's activities from 1932 until 1945 established that he joined in, and was an accomplice to the conspiracy charged in Count V; and is, therefore, individually responsible for his own acts and for the acts committed by other persons in the execution of such common plan or conspiracy.

5. Proposed Findings of Fact with Respect to the Guilt of GATTINEAU.

The evidence has established beyond a reasonable doubt the guilt

of the defendant GATTINEAU on the charges contained in Counts I, II, and V of the Indictment filed in Case VI. The guilt of the defendant GATTINEAU under each of these Counts is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of GATTINEAU, during the period from 1933 to 1945, constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) GATTINEAU's activities as liaison man for Farben from 1933 to at least 1939; as chief of Farben's Political Economy Department from 1933 to the end of 1938; and as leading official of various Farben affiliates in occupied and satellite countries.

(b) GATTINEAU's activities in other positions including his activity as a member of the Circle of Economic Advisers to the Ministry of Propaganda, and as a member of the Advertising Council of German Economy of the Ministry of Propaganda.

(c) GATTINEAU's activities carried on through the instrumentality of Farben and through his other positions, included: (1) substantial participation in the creating and equipping of the Nazi war machine, and in the economic mobilization of Germany for war; (2) furthering the military potential of Germany vis-a-vis other countries by other means such as propaganda, intelligence, and espionage activities; (3) supporting the Nazi party program financially and politically; and (4) the activities charged as crimes under Count II of the Indictment.

2. GATTINEAU participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, and their personal freedoms. GATTINEAU knew this for a number of reasons:



(a) GATTINEAU knew that this had been the program of the Nazi Party since the early 1920's, and beginning in 1933 it was clear to GATTINEAU that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936, and reaching staggering proportions in 1938, could have no other meaning to GATTINEAU than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi Government, and the general measures of rearmament, the nature of the activities carried out by GATTINEAU and the timing of such activities, establish that GATTINEAU knew he was preparing for aggression.

(d) Specific instances, such as the meeting with Hitler, at which Hitler described his aims, and GATTINEAU's own statements on various occasions, are sufficient in and of themselves to establish that GATTINEAU had the required state of mind.

(e) GATTINEAU's state of mind became more definite with each passing year. For some time prior to 12 March 1938, the invasion of Austria was an established fact to GATTINEAU; thereafter, it was clear that Germany planned to use her military power to take away from other peoples what belonged to them; from 12 March 1938 on, including the conquest of the Sudetenland on 1 October 1938, Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, GATTINEAU knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant GATTINEAU.

(a) As a matter of law, even if the facts establish that GATTINEAU acted under duress or coercion, this would be no defense.

(b) The facts do not establish that GATTINEAU acted under duress or coercion in carrying out any of the activities specified above.

Count II

1. The defendant GATTINEAU knowingly participated in plans to spoliates, and in spoliating, the chemical industries of occupied countries.

2. GATTINEAU bears responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe.

3. The alleged defense of duress or coercion is not available to the defendant GATTINEAU.

(a) As a matter of law, even if the facts establish that GATTINEAU acted under duress or coercion, this would be no defense.

(b) The facts do not establish that GATTINEAU acted under duress or coercion in carrying out any of the activities specified above.

Count V

The foregoing activities were engaged in by the defendant GATTINEAU in collaboration with the defendants who were members of the Vorstand of Farben. GATTINEAU thereby became an accomplice in the execution of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

W - ERICH von der HEYDE

1. Charges in the Indictment. The defendant von der HEYDE is indicted under Count One (Crimes against Peace), Count Two (Plunder and Spoilation constituting War Crimes), Count Three (Slave Labor constituting War Crimes and Crimes against Humanity), Count Four (Membership in the SS), and Count Five (Conspiracy to commit Crimes against Peace). The defendant took the stand in his own behalf (Tr. 12384 et seq).

2. General Nature of the Evidence Supporting These Charges. Upon reviewing all the evidence, the prosecution is not satisfied that it has established a substantial participation by the defendant von der HEYDE in the activities of Farben before the year 1938. However, in that year von der Heyde became Abwehr agent of Berlin NW-7 and was placed in charge of mobilization questions of the commercial side of Farben. At the same time he was working with the Central Office of the SD (Sicherheitsdienst) on economic questions involving the chemical industry. Beginning with the year 1938, von der HEYDE played a substantial role in and bears a substantial responsibility for preparing Germany for aggression and for participating in this aggression once it had begun.

A summary of specific activities contained in this section of the brief relating specifically to the defendant von der HEYDE sets forth certain highlights in the activities of the defendant von der HEYDE and shows the general nature of the field of activity in which he was engaged during the period 1933 to 1945. These specific instances should only be considered, however, in the light of what has been said in the whole of this Final Brief together with the Preliminary Memorandum Brief.

3. Von der HEYDE's Positions from 1936 to 1943: The positions which the defendant von der HEYDE held in the economic and political life of Germany from 1936 to 1945 are set forth in some detail in FE's 164 and 294. The following positions held by von der HEYDE during these years are of special significance.

(a) In 1936 von der HEYDE became a member of the Political and Economic Department (WIFO) of Farben's Berlin NW 7 Office.



(b) In 1938, von der HEYDE became the "Commercial" Abwehr Agent for Farben's Berlin NW 7, charged with tasks of Intelligence and Counter-Intelligence for the OKW.

(c) In 1940 von der HEYDE was appointed deputy to Farben's chief Abwehr agent SCHNEIDER, and was placed in charge of coordinating the Intelligence and Counter-Intelligence activities of the commercial sector of Farben for the OKW.

(d) Von der HEYDE was a member of the SS from 1933 on; was promoted to the rank of Hauptsturmfuehrer SS in 1941; was a member of the German Labor Front from 1934 on; and a member of the NSDAP from 1937 on.

(e) In 1942 von der HEYDE was attached to the Military Economy Armament Staff of OKW.

4. Certain Specific Activities of von der HEYDE during the Period from 1936 to 1943.

a. COUNT I - CRIMES AGAINST THE PEACE

(1) During the period from 1938 to at least 1942 von der HEYDE bears a major responsibility for the activities of Farben in procuring and transmitting intelligence from abroad to the Nazi Government in furtherance of the planning, preparing, and waging of aggressive wars and invasions of other countries. During this period von der HEYDE was head of the Abwehr department of Farben's Berlin NW 7 and from 1940 deputy Abwehr chief to the defendant SCHNEIDER, with responsibility for the entire commercial sector of Farben. In this capacity von der HEYDE initiated, promoted, and carried out schemes for the procurement of intelligence from abroad for the Wehrmacht and in other ways assisted the Intelligence Department of the Wehrmacht in its espionage activities abroad.

(2) Von der HEYDE joined the SS in 1933 (PE 1588) and the Nazi Party in 1937 (PE 294). In October of 1936, he became a member of the Political Economy Department of Berlin NW 7 as expert on nitrogen and agriculture (Tr. 12390). In about 1937, von der HEYDE was attached to the SD Main office as confidence man for the purpose of supplying information

to the newly organized Economy and Industry Department of the SD under the leadership of Ohlendorf (PE 1599; Tr. 12413-12414). Von der HEYDE informed Krueger, ILGNER's deputy chief of Berlin Northwest 7, of this assignment and with Krueger's approval supplied the SD with information requested (Tr. 12419). In January 1938, von der HEYDE was promoted to Second Lieutenant in the SS and was assigned in the Leadership Corp of the SD (PE 1597).

(3) According to von der HEYDE, in the beginning of the middle of 1938, Farben Berlin NW 7 was declared a Military Economic enterprise (Tr. 12404) and in the middle of 1938, on the recommendation of the defendant ILGNER, von der HEYDE was appointed Abwehr agent of Berlin NW 7. Von der HEYDE's tasks as Abwehr agent were to insure the carrying out of certain secrecy requirements of the Wehrmacht, security measures against espionage and the transmittal of reports from abroad to the Intelligence Department of the Wehrmacht (PE 164). At the same time, von der HEYDE was placed in charge of mobilization questions for the commercial sector of Farben (PE 164 supra, Tr. 12398). He remained in charge of the mobilization questions at least until 1942 (PE 250). In January of 1939, Farben created a military economy department within Berlin NW 7 and von der HEYDE was placed in charge of that department. His activities in that department included the handling of Abwehr questions, mobilization questions, and his contacts with the SD (Tr. 12431). In testifying concerning mobilization questions von der HEYDE stated that in the "Spring of 1939 after the events of Bohemia and Moravia . . . training in the Wehrmacht had progressed to the point where the younger men were in large numbers receiving instructions from the Wehrmacht as to what they were to do, where they were to report in case of mobilization" (Tr. 12399). At that time von der HEYDE began making regular reports on the mobilization question to the Commercial Committee (Tr. 12408).

(4) In Part VI, "M - Paul HAEFLIGER", above, we have already discussed von der HEYDE's role in dealing with the military-economy staff of the High Command with respect to the special handling of HAEFLIGER's citizenship between June and August 1939. The letter which von der HEYDE

wrote to General Buchnermann on 11 August 1939 (PE 2105), reflects the Vorstand's concern and von der HEYDE's clear knowledge of the concrete and imminent advent of war as a necessary part and parcel of Hitler's policy of aggression. Von der HEYDE did not testify concerning this HAEFLIGER matter. His defense, apparently, is that a prokurist in Farben is too small a character in the giant Farben concern to be chargeable with participation in the furtherance of aggression.

(5) Shortly after von der HEYDE was appointed Abwehr agent, he was requested by the defendant GATTINEAU, to contact Major Bloch of the Intelligence Department of the OKW. As a result of this an arrangement was made to transmit to Bloch reports from foreign countries received by Farben and to refer to Bloch Farben representatives from abroad who visited Berlin (PE 164; Tr. 12411). The defendant von der HEYDE worked zealously to carry out these tasks and to promote additional cooperation between Farben and the Intelligence department of the OKW and the Reich Main Security Office. Von der HEYDE had been promoted to First Lieutenant of the SS on 10 September 1939 (PE 1597). On March 1940 von der HEYDE urged the defendant SCHNITZLER to persuade the members of the Commercial Committee to place espionage agents of the Wehrmacht and of the Reich Main Security Office in Farben's organizations abroad. In this request to SCHNITZLER, von der HEYDE points out that "I know as a result of my very close connections with the OKW and the Reich Main Security Office (SD) that, in view of the war situation and of forthcoming events, they are counting to an ever increasing extent on the cooperation of industry, particularly of large German enterprises in work abroad" (PE 927). According to the defendant SCHNEIDER, Farben's valuable relations abroad as a source of information and intelligence was recognized by the OKW (Tr. 7365). SCHNITZLER in reply to von der HEYDE suggested the use of an organization in which Farben had an interest for camouflaging espionage agents (PE 928). Von der HEYDE reported on the question to the Commercial Committee meeting shortly thereafter and it was decided that von der HEYDE and von SCHNITZLER would take up the question of a more effective way of cooperating concerning employing espionage agents abroad either



permanently or for the period necessary to carry out a specific mission (PE 929). (See also PE 930, for further activity by von der HEYDE on this question).

(6) Sometime in 1940 the defendant SCHNEIDER was appointed chief of all of Farben's Abwehr agents. Von der HEYDE was appointed SCHNEIDER's deputy in charge of Abwehr activities with respect to the entire commercial sector of Farben (PE 919; see also PE 917). On May 2, 1941, a meeting was held in Frankfurt concerning cooperation between the intelligence department of the Wehrmacht (Abwehr I W1) and Farben. The meeting was attended by the defendant SCHNEIDER, who acted as chairman of the meeting, Major Bloch representing the Intelligence Department of the Wehrmacht, von der HEYDE, the Abwehr agents of Farben, and the local Abwehr officers of the Wehrmacht. At the meeting Bloch thanked I.G. for the valuable cooperation and support which Farben had given in the field of the foreign intelligence service and in regard to questions of economy and war economy. Bloch pointed out the problems in the near future. Work on England and the British Empire, United States, and Russia, which were to be considered enemy countries were to be given primary importance (PE 1904). At this meeting von der HEYDE stressed the importance of cooperation by Farben in the field of foreign espionage not only during the war but after it was ended, von der HEYDE then stated:

"No trip abroad, no stay abroad, no visit abroad, no report from abroad, no exchange of news or experience with foreign countries except with the thought whether Abwehr W1 I (economic intelligence) and its foreign branches are interested in it."

As a result of the measures proposed by von der HEYDE, it was decided that Farben would carry out the following tasks. Abwehr agents of Farben were to report to the Abwehr office of the OKW concerning Farben representatives who were going abroad and were to report which of these representatives were suitable to carry out missions in the field of foreign economic espionage; Farben representatives returning from abroad and Farben visitors from abroad were to make oral reports to the Abwehr office to insure secrecy; Farben's Bureau A (of which SCHNEIDER was in charge) would be informed of confidential agents of the OKW Abwehr appointed from among

Farben employees abroad; reports from abroad including technical reports which were received by Farben in the course of continuous exchange of experience with a foreign firm and reports of Farben's technical men regarding inspections or construction of technical installations abroad were to be transmitted to the OKW Abwehr; and Farben was to continue to aid the intelligence department of the OKW in camouflaging travels of their agents abroad (PE 1904).

(7) These measures were approved at a Commercial Committee meeting at which von der HEYDE reported concerning this conference (PE 370). The minutes of the conference containing a report of the discussion and the measures decided on were sent to all of Farben's Abwehr agents requesting their cooperation in carrying out the tasks set forth. Thirty copies were distributed (see first para. of document PE 1904). A report of this conference, which was transmitted to the defendant GAJEWSKI by one of the Abwehr agents who attended the conference notes that Abwehr agents were also entrusted with the task, in cooperation with Abwehr officers, of training Farben employees going abroad on special missions for the Abwehr (PE 2141, see item 4). (See also item 5 of this report concerning the character of the information appearing in Farben reports from abroad which was to be transmitted to the Abwehr). The information transmitted to the Abwehr through I.G. Abwehr agents covered, among other things, reports concerning ship movements (PE 840), information concerning the location and production capacity of vital war plants in foreign countries (PEs 922 and 920), information from engineers working in foreign countries concerning the organization and stage of technical development of the armed forces of the particular country in which the engineer was employed (PE 921), and location maps of vital plants in foreign countries for bombing targets (PEs 864 and 924). Von der HEYDE's activities as deputy to SCHNEIDER in Abwehr matters were not limited to promoting Farben's intelligence activities. At a meeting of the Abwehr officers of Farben in November 1940, von der HEYDE lectured on the tasks of the political security officer in contrast to and in connection with the Military Security (Abwehr). After pointing out that the political security officer must pay

"special attention to disturbances among employees (political or strike instigations, atrocity propaganda, etc.), the catching of persons or organizations which are against the government"; the question of training "foreign labor in the plants for the sales organization abroad" was discussed and it was decided it was better to employ prisoners of war rather than civilian foreigners.

b. COUNT II - PLUNDER AND SPOILATION

(8) Upon reviewing all the evidence, the prosecution is not satisfied that it has established beyond a reasonable doubt the guilt of the defendant von der HEYDE for the charges in Count II.

c. COUNT III - SLAVE LABOR AND MASS MURDER

(9) Upon reviewing all the evidence, the prosecution is not satisfied that it has established beyond a reasonable doubt the guilt of the defendant von der HEYDE for the charges in Count III. However, much of the proof introduced in connection with Count III is relevant in connection with von der HEYDE's knowledge of the criminal activities of the SS (see Count IV below).

d. COUNT IV - MEMBERSHIP IN THE SS, A CRIMINAL ORGANIZATION

(10) Under Count IV of the Indictment, the defendant has been charged with criminal membership in the SS. Under paragraph 1 (d) of Article II, Control Council Law No. 10, membership in categories of a criminal group or organization declared criminal by the International Military Tribunal is recognized as a crime. The categories of SS membership declared to be criminal by the IMT are found in the judgment of the IMT in the discussion of the "SS" (beginning at p. 268, more particularly at p. 273). The IMT did not include in the criminal category "the so-called SS Reiter Units." It also excluded "those who were drafted into membership by the State in such a way as to give them no choice in the matter, and who had committed no such crimes," as well as all "persons who had ceased to belong to the organizations enumerated in the preceding paragraph prior to 1 September 1939." The IMT included "the members of any



of the different police forces who were members of the SS" (p. 273). Under the special section of the judgment on the "Gestapo and the SD" (beginning at p. 262), the IMT included within criminal membership the various offices of RSHA "and all other members of the SD, including all local representatives and agents, honorary or otherwise, whether they were technically members of the SS or not, but not including honorary informers who were not members of the SS, and members of the Abwehr who were transferred to the SD" (pp. 267-268).

(11) The evidence introduced by the prosecution shows that the defendant von der HEYDE was a member of the SS from 1933 until 1945 and that his SS unit was the SD Main Office (PEs 294 and 1598), one of the offices later consolidated in the infamous RSHA, which was formed on 27 September 1939 (IMT Judgment, pp. 262-263); that on January 30, 1938, von der HEYDE was promoted to Untersturmfuehrer (SS Second Lieutenant); on 10 September 1939 to Obersturmfuehrer (SS First Lieutenant); and on 30 January 1941 to Hauptsturmfuehrer (SS Captain); and that he was listed on the SS personnel file as a Leader in the SD (PE 1597; see also PEs 2234 and 2235).

(12) Although von der HEYDE has claimed he was always and only a member of the Reitersturm (Cavalry) SS, his SS records (some in his own handwriting) show he was a member of the General (Allgemeine) SS. Cross examination on this point is final enough (Tr. 14101):

"Q. Witness, in any of the correspondence which you have just gone through with your defense -- he has mentioned the document number -- did you at any point observe any reference to any membership by you in the Reiter-SS, either in your own handwriting, in the handwriting of Himmler, or in the handwriting of any of the persons in between?

"A. I merely found the reference that I was a member of the General SS, the Allgemeine-SS."

We suggest that "window-dressing" by falsification of SS forms is scarcely likely to have been practiced by von der HEYDE, and it is clear that the SS kept its books "in order" on such matters. On the decisive point, there is not one contemporaneous document to sustain von der HEYDE's claim.

(13) Von de HEYDE was also deputy to the Chief Counter-Intelligence Officer (Abwehr) of Farben and Counter-Intelligence Officer for Farben NW 7 (PE 163). He was first appointed Counter-Intelligence Officer for Farben in the middle of January 1938 (PE 164). The obligations arising from this position are outlined in PE 163. In this capacity the defendant was an auxiliary agent of the Gestapo and as such subject to the direction of the Gestapo. It may be pointed out that contrary to most cases, the defendant did not become attached to the RSHA on the basis of his position as Counter-Intelligence Officer of Farben, but that he was in the SS and the SD many years before his appointment as Counter Intelligence Officer in Farben, and that his first promotion listed on his SS personnel card took place in January 1938 prior to that appointment.

(14) The defendant contends that he was not a member of the general SS but was a member of the Reitersturm SS which was specifically excluded from criminal responsibility by the I.M.T. judgement. He alleges that he joined the Reitersturm SS in Mannheim in 1933 and that he moved to Berlin in 1936. Although Von de HEYDE testified on his direct examination that he maintained his SS associations in the Reitersturm SS after he moved to Berlin, in his affidavit (PE 164), he states that he terminated his membership in Reitersturm SS in 1936 and that the last rank that he held in the Reitersturm SS was that of Sergeant (Haupt Scharfuehrer). Even assuming that Von de HEYDE was attached to the Reitersturm SS from 1933 until 1936, the evidence is clear that thereafter and certainly by January 1938, he was a member of the General SS and attached to the SD Main Office Unit.

(15) The evidence concerning Von de HEYDE'S membership in the Reitersturm SS does not appear in any of the contemporaneous documents submitted by the prosecution. These documents consist of the SS personnel card (PE 1597 supra), a questionnaire of the Race and Settlement Office of the SS filled in by the defendant Von de HEYDE in his own handwriting (PE 1598 supra); an application form filled in

by Von der HEYDE on 6 May 1939 requesting forms for a marriage application required by SS members (FE 2234 supra); and correspondence dated 16 October 1939, concerning approval for the marriage application (FE 2235). Not one of these documents mentions the Reitersturm SS. On the contrary, it is clear from these documents that Von der HEYDE'S membership was in the General SS (Allgemein SS) and that his unit was the SD Main office. The application form for marriage filled in by Von der HEYDE on 6 May 1939 states that he was a member of the general SS and that his unit was the SD Main office, and that Standartenfuhrer (SS Colonel) Six, chief of a department in the SD Main office was his superior (FE 2234). The approval of his marriage personally granted by Himmler on 16 October 1939, refers to his unit of the SS as the SD Main Office and his approval was transmitted to that office (FE 2235).

(16) In view of all the evidence, Von der HEYDE'S membership in the SS clearly falls under the categories of organizations declared criminal by the I.M.T. In addition to such criminal membership Von der HEYDE aided and abetted the crimes of the SS, the SD, and the Gestapo by virtue of his positions as a confidence man and honorary collaborator in Office III (Amt. III) of the SD-Main Office, later the RSHA, and in the fulfillment of the tasks of Counter-Intelligence Officer of Farben which activities may best be designated under the term "auxiliary agent of the Gestapo".

#### d. COUNT V - CONSPIRACY

(17) Von der HEYDE is also charged under Count V of the Indictment for participating in the conspiracy to commit crimes against peace. The case against Von der HEYDE in this respect is substantially different from that of the 19 members who were members of the Vorstand. The prosecution contends, however, that the evidence concerning Von der HEYDE'S activities from 1938 until 1942 established that he joined in, and was an accomplice to the conspiracy charged in Count V; and is, therefore, individually responsible for his own acts and for the acts committed by other persons in the execution of such common plan or conspiracy.



5. Proposed Findings of Fact with Respect to the Guilt of  
Erich Von der HEYDE.

The evidence has established beyond a reasonable doubt the guilt of the defendant Von der HEYDE on the charges contained in Counts I, IV and V of the indictment filed in Case VI. The guilt of the defendant Von der HEYDE under each of these counts is predicated on the following facts, which have been established by the proof.

COUNT I

1. The following activities of Von der HEYDE during the period from 1938 to 1942 show substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) Von der HEYDE'S activities as one of the officials of Farben including his activities as a member of the Political and Economic Departments (WIPO) of Farben Berlin NW 7 from 1936 to 1945; as Abwehr Agent NW-7 from 1938 to 1940; and as Farben's Deputy Chief Abwehr Agent from 1940 to 1945.

(b) Von der HEYDE'S activities carried on through the instrumentality of Farben and through his position in military and SS Offices included participation in the economic mobilization of Germany for war and close cooperation with the Intelligence Department of the Wehrmacht and Reich Main Security Office (RSHA) in the field of propaganda, intelligence and espionage.

2. Von der HEYDE participated in these activities knowing that he was participating in preparations for aggression and that Germany's power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property and their personal freedoms. Von der HEYDE knew this for several reasons:

(a) Von der HEYDE knew that this had been the program of the Nazi Party since the early 1920's and beginning in 1933 it was clear to Von der HEYDE that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1936 and reaching unbelievable proportions in 1938 could have no other meaning to Von der HEYDE but that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi government, and the general measures of rearmament, the nature of the activities carried on by Von der HEYDE and the timing of such activities makes it clear that Von der HEYDE knew what was coming.

(d) From at least 1938 it was clear to Von der HEYDE that Germany planned to use her military power to take away from other peoples what belonged to them; and after the conquest of the Sudetenland from 1 October 1938 on, including the conquest of Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, Von der HEYDE knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant Von der HEYDE.

(a) As a matter of Law, even if the facts established that Von der HEYDE acted under duress or coercion, this would be no defense.

(b) The facts do not establish that Von der HEYDE acted under duress or coercion on carrying out any of the activities specified above.

#### COUNT IV

The defendant Von der HEYDE was a member of the SS from 1933 to 1945. He knew of the criminal activities of the SS, including the enslavement, mistreatment and murder of concentration camp inmates.

#### COUNT V

The foregoing activities were engaged in by the defendant Von der HEYDE in collaboration with the defendants who were members of the Vorstand of Farben. Von der HEYDE thereby became an accomplice in the execution of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

X - HANS KUGLER

1. Charges in the Indictment. The defendant KUGLER is indicted under Count I (Crimes against Peace), Count II (Plunder and Spoliation, constituting War Crimes), Count III (Slave Labor constituting War Crimes and Crimes against Humanity), and Count V (Conspiracy to commit Crimes against Peace). The defendant took the stand in his own behalf (Tr. 12538 seq., 12626 seq., 12699 seq., 12778 seq.)

2. General Nature of the Evidence Supporting These Charges.

On reviewing all the evidence, the prosecution is not satisfied that the evidence has proven beyond a reasonable doubt that defendant KUGLER bears a major responsibility for the activities of Farben for the years preceding 1938. The evidence does show, however, that KUGLER bears such responsibility since, at least, October 1938. From that time on, through the instrumentality of Farben, and through the positions he held in the financial, industrial, economic, and political life of Germany, KUGLER was co-responsible for preparing Germany for aggression and for participating in this aggression once it had begun; for participating in reaping the spoils of this aggression through the plunder and spoliation of the chemical industries of occupied countries; and for participating in the illegal use and mistreatment of foreign workers as slaves in the furtherance of the German war effort.

These charges against the defendant KUGLER are proven beyond any reasonable doubt by the evidence which has been introduced in this case. This evidence is summarized in Parts I through VI of this final brief (including a Preliminary Memorandum Brief which is made a part hereof). A summary of specific activities contained in this section of the brief relating specifically to the defendant KUGLER sets forth certain highlights in the activities of the defendant KUGLER and shows the general nature of the field of activity in which he was engaged for a period of years preceding 8 May 1945. These specific instances should only be considered, however, in the light



ow what has been said in the whole of this final brief together with the Preliminary Memorandum Brief.

3. KUGLER'S Positions for a Period of Years Preceding 8 May 1945.

The positions which KUGLER held in the financial, industrial, economic and political life of Germany for a period of years preceding 8 May 1945, are set forth in PE 304 (see also KUGLER's testimony on direct examination, Tr. 12539, 12547-12549). The following positions held by KUGLER during these years are of special significance.

(a) KUGLER who became a Farben Prokurist in 1938, received the title of director in the Dyestuffs Division in 1935. He became Chief of the Sales Department Dyestuffs for Hungary, Roumania, Czechoslovakia and Austria in 1934, and as of February 1944 also of Greece, Bulgaria, Turkey, Africa and the Near East.

(b) KUGLER became a member of the South-East Europe Committee in 1939.

(c) In 1940, he became a member of Farben's Commercial Committee. Even before he acquired membership, he frequently joined the meetings of said Committee after 1938 (PEs 1069, 1622).

(d) KUGLER was a second Vice-Chairman of Farben's Dyestuffs Committee from 1938 to 1945, and a member of the Dyestuffs Steering Committee (Engerer Farben-Ausschuss) from 1937 to 1945.

(e) KUGLER became a member of the German Labor Front in 1934, and a member of the NSDAP in October 1939.

(f) KUGLER was a member of the Dyestuffs Application Committee (Coloristische Kommission) from December 1943 to 1945. In August 1944, he became Advisory Counsel for Export Questions of the Supervisory Office Chemistry.

(g) KUGLER's board membership in, or management of, foreign factories or corporations acquired by Farbens during the belligerent occupation of the countries concerned was as follows: In October 1938, he became Commissar for the Aussig-Falkenau factories of the Prager Verein, Prague. He kept this position up to February

1939. Then, in 1939, he became the manager of the Teerfarbenwerke Aussig G.m.b.H., Aussig, Czechoslovakia, which had taken over the Aussig-Falkenau plants, and kept this position until 1945. From 1939 to 1945, KUGLER was also Advisory Counsel of the Aufsichtsrat of the Chemische Werke Aussig-Falkenau G.m.b.H. When the Francolor was organized at the end of 1941, defendant KUGLER became a member of its Commercial Committee and kept this position up to the liberation of France.

4. Certain Specific Activities of KUGLER for a Period of Years Preceding 8 May 1945.

a. COUNT I - CRIMES AGAINST THE PEACE

(1) Defendant KUGLER was not a member of the Farben Vorstand. Accordingly, the general comments concerning the individual responsibility of defendants who are Vorstand members (Part I-B, supra) do not apply to him. However, his responsibility under Count I follows from his personal activities in connection with the Aussig-Falkenau plants (infra, ), his preparation of the New Order (infra, V), and from the outstanding part he played in spoliating the French dyestuffs industry, which was most closely connected with waging and preparing aggressive war (infra, Count II, No. 3; compare Tr. 7238); also from his participation in spoliating Polish property and plants in Alsace-Lorraine (infra, Count II, Nos. 1 and 2). Reference is also made to defendant KUGLER's participation in Commercial Committee meetings where Mob questions were discussed (PE 250), and in the meetings of the Dyestuffs Committee preceding them (PE 376) also to his discussions with Dr. Kuepper concerning the problem of camouflage measures (Tr. 2905).

Part Played by KUGLER in the Sudetenland

(2) As director of Farben's dyestuffs business in Czechoslovakia (Tr. 12628), KUGLER, as early as May 1938, helped lay the plans for the "peaceful" invasion of the Sudetenland. Although he did not attend the conference of 17 May 1938 (PE 833), he received a copy of said

meeting at the next Commercial Committee meeting (PE 1612) which he attended at the time without being a member; and he discussed this whole problem with his immediate subordinate Seeborn who was also the Chairman of that meeting (Tr. 12578).

(3) Even before the Sudetenland was invaded, Farben suggested on 3 September 1938 to have KUGLER appointed one of two "Commissars" to take over the chemical factories in the Sudetenland (PEs 1044, 1045; see also opening statement for KUGLER, to the effect that KUGLER offered his "service for such an office", Tr. 4943). In KUGLER's words, he "was given the mission of operating the plant for the party concerned, objectively and neutrally" (Tr. 12629). It is shown, however, by prosecution as well as defense documents that KUGLER's activities not only served Farben's aggrandizement but, at the same time, were directed to serving Germany's Four-Year Plan and to strengthening her war potential. In his contemporaneous report to the Reich Ministry of Economics, defendant KUGLER, listing "his cooperation with State and Party organs", stresses "in particular" the "collaboration concerning projects of the Army Ordnance Office and projects of the Four-Year Plan" (KUGLER Exh. 44, his Book II, pp. 74-75).

(4) Defendant KUGLER also had a conference in October 1938 at defendant KRAUCH's office in Berlin, and reported on this discussion to both the Ministry of Economics and Farben on 26 October 1938 (PE 2152, containing his letter to Dr. Hoffmann and also the inter-office memo of even date). Both documents are written by the Commissars of the Aussig-Falkenau plants, i.e., defendant KUGLER and Brunner. The documents are particularly revealing since they show how closely the desire to acquire title to the Aussig-Falkenau plants was connected with planning aggressive war. As a result of his conference in KRAUCH's office, defendant KUGLER and Brunner emphasize that "the plants (Aussig-Falkenau) are predestined for further expansion or transformation of the manufactures on lines of interest to military economy, and in keeping with the principles of the Four Year Plan".



In the opinion of the Commissars, i.e., defendant KUGLER and Brunner, "there should be a clarification as soon as possible of the question whether the Sudeten-German plants belonging to the Aussiger (Prager) Verein are still under the ownership" of the Prager Verein. In other words: Prager Verein should lose the property, and Farben should acquire it! Considering the planned war production,

"it would be practically impossible in the long run to conceal the fact of a military economic production of the kind - apart from the claim the owner can make to have the books checked on the spot".

In this connection it is irrelevant whether or not the planned war production at Aussig and Falkenau was carried through to the extent and at the time contemplated at said meeting. The fact that such plans were definitely being made and that defendant KUGLER was advised of them, participated therein, and made them the basis of his own suggestions, fully establishes his own participation in planning aggressive war.

(5) As to the knowledge of defendant KUGLER that the war he anticipated in October 1938 and before and after such date, was aggressive, reference is made to his statement (PE 1629, pp 9, 10, 11), "In summer 1938", he admitted, "with the Sudeten crisis, we were afraid there would be complications". Manifestly, he is referring to the situation which was ably described by defendant HAEFLIGER as the uncertainty

"whether simultaneously with the march into Austria which to us was already an established fact, there would not also take place the 'short thrust' into Czechoslovakia with all the international complications which would be kindled by it".

(HAEFLIGER's contemporaneous secret note, dated 16 March 1938, PE 2014).

Defendant KUGLER himself, after stating: "We were afraid that the policy of the Third Reich might lead to catastrophe" (PE 1629, p. 10), distinguishes the following two alternatives:

"It might have worked both ways. The other countries, in their turn, might have gone to war and taken military steps against the foreign policy of the Third Reich ... or Germany, in her turn, might have proceeded to an attack. These are the two possibilities".

Defendant KUGLER here clearly shows the same misconception to which we pointed in the final brief concerning the individual responsibility of defendant KRAUCH (Part VI-B, supra). It would seem to be his position that, if, e.g., Great Britain and France had attacked Germany when Germany took over Czechoslovakia by the use of force, then the war which would have ensued would have been a "defensive war" on the part of Germany. There can be no doubt, however, that he who, by his aggressive policy, by invading other countries, and by breaching international agreements, provokes the interference of other powers - that he is the true aggressor; so that, even if defendant KUGLER's first alternative had actually happened, it would clearly have been an aggressive war on the side of Germany. Knowing of such criminal foreign policy, of the breach of international agreements, of aggressive steps against other countries etc., is tantamount to the knowledge that aggressive war is being planned.

(6) When the war prepared by Germany had finally broken out, defendant KUGLER assisted and abetted Germany's plans to dominate all Europe, and to subjugate its economy to the interests of Germany. According to his admission (Tr. 12584), he was "particularly concerned with the drafting of the dyestuffs part (of the New Order) but I also helped in a few passages of the general part".

b. COUNT II - PLUNDER AND SPOILIATION

(7) Of all Farben directors who were not, at the same time, member of the Vorstand, defendant KUGLER had the most active share in Farben's war time spoliation. Even compared with the members of the Vorstand, he is second to a very few in his energy in this field.

(8) His over-all position within Farben appears from PE 3151 where, on 30 January 1943, Farben employee Paech analyzed the functions of the Management Department Dyestuffs. According to the statement, Mr. Eckert "under director KUGLER" was particularly in charge of supervising "the agreements concerning the Teerfarbenwerke Aussig, ...

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the Mulhausen Chemical Works ... the Teerfarbenwerke Litzmannstadt (i.e., Farben's subsidiary which acquired the assets of the former Boruta, Poland) .... Furthermore, the agreement with Francolor is being centrally administered here". \*) In his testimony concerning his jurisdiction, KUGLER denied that he had anything to do with either the Polish plant or the plants in Alsace-Lorraine (Tr. 12784). When PE 2151 was shown him, he tried to explain that Pasch has just an "administrative efficiency expert", and that he

"really could not judge the technical field of work of the Management Department" (Tr. 12826).

It would be, however, contrary to all experience if a Farben employee in charge of making efficiency reports would by-pass the head of the department, and submit his report without having checked it with anybody within the department knowing the facts; see also the statement of KUGLER's counsel, Tr. 2906-7.

(9) As to the individual cases of spoliation, the evidence has shown that defendant KUGLER participated in the spoliation in Poland and Alsace-Lorraine, and that he played a most active part in the Francolor case (France).

#### Poland

(10) In the case of the Polish plants, KUGLER's name appears as early as 10 September 1939 when, in a memo "for Dr. KUGLER", Prentzel and Mueller reported to him on their discussion with the RWM concerning Farben's trusteeship of the Polish plants (PE 2003; his attempted explanation, Tr. 12669-70). How the plan developed, and how Farben finally acquired title to Boruta, has been summarized in our Preliminary Memorandum Brief (Part II, p. 17) to which reference

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\*) Pasch's affidavit of 4 May 1948 (KUGLER Exh. 62) which was introduced at a time when he was no longer exposed to cross-examination, in vain contradicts his contemporaneous report (PE 2151). He then clearly stated that the Management Department Dyestuffs was being managed by Mr. Eckert "under Director KUGLER". It is not believable that he overlooked defendant von SCHNITZLER at the time though he "was aware of the fact that a special regulation existed on principle" (KUGLER Exh. 62).



is made. In line with von SCHWITZLER's witness Schwab (Tr. 6116), defendant KUGLER admitted that already "in the middle of September" I.G. Farben

"certainly entertained the idea of acquiring one or the other of the (Polish) plants" (PE 1629, p. 14).

He also admitted that Farben, when offering its experts in early September 1939, wished to prevent the Polish plants from being "cut off in any way from normal use";

by that he meant, as he explained, the use

"for military economy" (PE 1629, p.13).

After the Teerfarbenwerke Litzmannstadt G.m.b.H. was organized by Farben for the distinct purpose of acquiring title to the assets of Boruta, including its real property, defendant KUGLER's department was in charge of supervising it (PE 2151).

#### France (Alsace-Lorraine)

(11) As a member of the Dyestuffs Committee, KUGLER attended its meeting of 17 April 1941 where

"the Dyestuffs Committee notes that the Mulhausen plants of the Societe de Produits Chimiques et Matieres Colorantes de Mulhouse was restarted by the I.G. in April 1941, and that it has been leased to the Muehlhauser Chemische Werke, G.m.b.H., Mulhausen, Alsace, which is a new foundation of the I.G." (PE 1216, p. 3).

His Frankfurt department was then in charge of supervising the plant. (PE 2151). As was shown in our Preliminary Memorandum Brief (Part II, p. 20), the plant was later, i.e., in June/July 1943, acquired by Farben, including its real estate, after the Nazi government, for this very purpose, had confiscated it.

#### France (Francolor)

(12) From the very beginning, defendant KUGLER's participation in the Francolor case was leading. He worked on the dyestuffs part of the "New Order" report (PE 378, p. 7a; Tr. 12584; see also PE 1257). He also participated in the preliminary discussions which Farben conducted with the Armistice Commission in Wiesbaden in order to prepar

the meeting with the French (Tr. 12672); and he took part in the discussions Farben initiated with Nazi authorities in Germany, Belgium and France (PEs 1241, 1886). From then on, he represented Farben in all official meetings with the French, beginning 21/22 November 1940 in Wiesbaden: PE 1249, (he also dictated the report on the negotiations, PE 1258, p. 4), and thereafter in Paris on 21 January 1941: PE 1250, and 10/12 March 1941: PE 1253. Speaking of May 1941, he testified that in his

"capacity as the head of the Directorate Department, (he) was in charge of preparing the conference in Paris by contacting all the other agencies concerned" (Tr. 12820).

He also participated in the meeting of 18 November 1941 where the Francolor Convention was signed (PE 1255), and became Chairman of Francolor's German Commercial Committee (PE 1255, p. 23; obviously by mistake, in his direct testimony, he called it "Technical Committee", Tr. 12677) as soon as this corporation was organized. Even before he became a member of Farben's Commercial Committee in December 1940 (PE 304), he attended Commercial Committee meetings whenever his special field of activity was being discussed there, particularly in connection with France (see, e.g., PE 818, Commercial Committee meeting of 28/29 June 1940, dealing with the preparations of the "New Order" report; PE 1622, p. 4, Commercial Committee meeting of 18/19 July 1940, dealing with the New Order France, stressing that the French "should limit their activity ... to the home market"; Tr. 12675, Commercial Committee meeting of 20 August 1940; PE 369, Commercial Committee meeting of 25 September 1940, where "it is agreed that, concerning direct negotiations with the French partners, to begin with one should just wait").

(13) As to the individual steps taken by Farben in order to acquire a majority share in the French dyestuffs industry and related sectors, reference is made to the Preliminary Memorandum Brief (Part II, pp 36 seq.) and to the final brief on Francolor (Part III-2, supra). In order to avoid repetitions, we shall here just refer to some documents

which establish defendant KUGLER's participation and initiative.

(14) It was defendant KUGLER who personally approached Dr. Bard from the Office for Chemical Merchandise in Brussels, and asked him not to admit the resumption of French production (PEs 1241, 1243). Again, KUGLER called on the military authorities in Paris at the end of November 1940, and reported to defendant von SCHNITZLER that "I.C.'s wish for technical and material support is understood", and that "there is readiness to comply, and to see that the French production facilities, at least, are not improved, and that no alleviations are offered to production which might weaken the opponent's will to negotiate" (PE 1886, p.2). After Kramer had taken similar steps in Paris resulting in the strict prohibition for the French dyestuffs industry to export into the unoccupied zone (PE 2146), it was again defendant KUGLER who advised Kramer that his attitude towards the French group

"in the present interim stage, was approved in all respects" (PE 2147).

All the reports made by Kramer on the negotiations with Michel's staff and the French were sent a.o. to von SCHNITZLER, to MEER and defendant KUGLER (PE 1258, p.4).

(15) In the light of these contemporaneous documents, we can properly evaluate KUGLER's testimony in defense (Tr. 12683 seq, 12704). It can be summarized either to be a complete denial as long as he did not know that the proper documents were available to the prosecution (see, e.g., Tr. 12683, first answer, and compare PE 2144, introduced later - Tr. 12703 - as to who took the initiative in procrastinating negotiations with the French) or to be an explanation of the document in such a way that, eventually, the document would seem to say the contrary of what it actually expresses (see PE 1886 and KUGLER's testimony, Tr. 12691; also PE 1241 and testimony, Tr. 12682; even more conspicuous PE 1242 and testimony, Tr. 12816, bottom; PE 1242 and testimony, Tr. 12816).



(16) Since KUGLER was himself instrumental in procuring the pressure, he was, of course, aware of the fact that the entire Francolor agreement was being imposed on the French against their own free will. He admits he knew that the Vichy government also was opposed to Farben's 51% participation (Tr. 12780, last but one answer). He also admits (Tr. 12833) that he personally discussed with Farben's lawyer in charge, Dr. Kuepper, the question of the preamble to the Francolor Convention (PE 1255). Since it would seem that there was some misunderstanding (Tr. 12834) as to this preamble and Dr. Kuepper's testimony on it, it might be appropriate to briefly point to its importance. Defense witness Dr. Kuepper only testified to the meaning of the cartel agreement mentioned in such preamble. The pertinent point, however, is that, by this preamble, the French expressed their opposition to the Francolor agreement, and made it clear to the reader that they have not entered into this agreement on their own volition. That is how Farben, at the time, understood its meaning. The word "pressure" is being used in Farben's inter-office correspondence (memo of 13 June 1941, PE 2149). Dr. Kuepper feels Farben's Paris representative is right in his apprehension that, on the strength of this blunt preamble

"a change in the conditions might open the possibility for the French group to aboid the Convention" (PE 2149).

Kuepper also states that he had already expressed himself to the same effect. With prophet-like vision he adds:

"In any case, the preamble as it now stands might some time prove of great disadvantage to us" (PE 2149).

In his next letter of 1 July 1941 (PE 2150) which was addressed a.o. to defendant KUGLER and initialed by him, Kuepper again points to the undesirability of the preamble

"if only for the reason that, whenever the Convention is being referred to, the attention is drawn again and again to its history which is unpleasant for the French" (PE 2150).

Farben, at that time, already knew from the Rhone-Poulenc case that "undesirable" references of this type are best eliminated by winning the Nazi government's approval for telling the other party: the authorities do not like the clause, and it should be stricken (MAIN Exh. 213, PE 1274). Following the same pattern,

"Dr. Kramer, therefore, suggested that the elimination of the Exposé (preamble) should be effected not through private economic negotiations but via the staff of Michel, on the grounds that it is considered undesirable by the German government" (PE 2150).

The French, however, in this case, did not yield, and the preamble, giving in a nut-shell the true background of the Francolor agreement, is fulfilling its purpose.

(17) After the Francolor agreement was signed, the French factories amalgamated therein were, at once, converted to the needs of the German Army (final brief Francolor, Part III-C, supra). Defendant KUGLER's knowledge and participation appear from PEs 1260, 1887, 2197. The defenses interposed by defendant KUGLER in connection with the spoliation case Francolor have been dealt with in the final brief on Francolor to which reference is made.

c. COUNT III - SLAVERY AND MASS MURDER

(18) On reviewing all the evidence, the prosecution is not satisfied that the evidence has established beyond a reasonable doubt, the guilt of the defendant KUGLER for substantial participation in any of the activities charged under Count III of the Indictment, except that in his capacity as Chief Supervisor of the Francolor agreements which were being centrally administered by his Frankfurt office under his direction (PE 2151), KUGLER knew, approved of, and is responsible for, Farben's labor practices relating to France, more particularly as alleged generally in paragraph 125 under Count III of the Indictment (PE 1327; see also Preliminary Memorandum Brief, Part III, p.3 and following, and Part VI, "D - Georg von SCHNITZLER, par, (53), p. 113, supra).

d. COUNT V - CONSPIRACY

(19) KUGLER is also charged under Count V of the Indictment for participating in a conspiracy to commit Crimes against Peace. The case against KUGLER in their respect is substantially different from that against the nineteen defendants who were members of the Vorstand. The prosecution contends, however, that the evidence concerning KUGLER's activities since October 1938 establishes that he joined in, and was an accomplice to, the conspiracy charged in Count V; and is, therefore, individually responsible for his own acts and for the acts committed by other persons in the execution of such common plan or conspiracy.

5. Proposed Finding of Fact with Respect to the Guilt of Hans KUGLER.

The evidence has established beyond a reasonable doubt, the guilt of the defendant Hans KUGLER on the charges contained in Counts I, II, III and V of the Indictment filed in Case VI. The guilt of the defendant KUGLER under each of these Counts, is predicated upon the following facts, which have been established by the proof.

Count I

1. The following activities of KUGLER, during the period from 1933 to 1945 constitute substantial participation in furthering Germany's military power and Germany's program of aggression.

(a) KUGLER's activities as director in the Dyestuffs Division of Farben from 1934 to 1945; as Chief of the Sales Department Dyestuffs from 1934 on for various countries including Czechoslovakia; as Vice-Chairman of Farben's Dyestuffs Steering Committee from 1937 to 1945; and as member of Farben's Commercial Committee from 1940 on.

(b) KUGLER's activities included: (1) substantial participation in creating and equipping the Nazi war machine, and in the economic mobilization of Germany for war; (2) cooperating with German military and party organizations in particular concerning projects of the Army Ordnance Office and projects of the



Four Year Plan; (3) furthering the military potential of Germany by planning and participating in the subjugation of the economics of Czechoslovakia and France in the interests of needs of the Germany Army; (4) the activities charged as crimes in Counts II and III.

2. KUGLER participated in these activities knowing that he was participating in preparation for aggression and that Germany's military power would be used, and after the start of each aggression was being used, for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their lands, their property, or their personal freedom. KUGLER knew this for a number of reasons:

(a) KUGLER knew that this had been the program of the Nazi party since the early 1920's, and beginning in 1933 it was clear to KUGLER that Hitler was determined to carry out this program.

(b) The enormous program for the production of armaments, starting in 1933, accelerated in 1935, and reaching staggering proportions in 1938, could have no other meaning to KUGLER than that Germany was preparing for aggression.

(c) In addition to the general policy of the Nazi government, and the general measures of rearmament, the nature of the activities carried on by KUGLER and the timing of such activities, established that KUGLER knew he was preparing for aggression.

(d) Specific instances such as the Commercial Committee meeting of 17 May 1938, at which Farben's plans with respect to the Sudetenland were discussed, and the suggestion for the appointment of KUGLER as Commissar of the Chemical Industries in the Sudetenland prior to Germany's invasion of the Sudetenland, are sufficient in and of themselves to establish that KUGLER had the required state of mind.

(e) From at least the summer of 1938, it was clear to KUGLER that Germany planned to use her military power to take away from other peoples what belonged to them; and after the conquest of the Sudetenland from 1 October 1938 on including the conquest of

Bohemia and Moravia on 15 March 1939, and thereafter the conquest of Poland and each succeeding country, KUGLER knew that Germany's power was being, and would continue to be, so used.

3. The alleged defense of duress or coercion is not available to the defendant KUGLER.

(a) As a matter of law, even if the facts established that KUGLER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KUGLER acted under duress or coercion in carrying out any of the activities specified above.

#### Count II

1. The defendant KUGLER knowingly participated in plans to spoliage, and in spoliating, the chemical industries of occupied countries.

2. KUGLER bears a major responsibility for, and knew of, the program of Farben to take over by force and compulsion chemical industries throughout Europe. KUGLER played an especially active role in the plunder and spoliation of property in France.

3. The alleged defense of duress or coercion is not available to the defendant KUGLER.

(a) As a matter of law, even if the facts established that KUGLER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KUGLER acted under duress or coercion in carrying out any of the activities specified above.

#### Count III (Sections A and C)

1. KUGLER knowingly participated in the use in Farben plants of foreign workers who were compelled by force to come to Germany and work in Germany.

2. Such foreign workers were ill-fed, ill-clothed, ill-housed and mistreated.

3. The alleged defense of duress or coercion is not available to the defendant KUGLER.

(a) As a matter of law, even if the facts established that KUGLER acted under duress or coercion, this would be no defense.

(b) The facts do not establish that KUGLER acted under duress or coercion in carrying out any of the activities specified above.

Count V

At least since 1938 the foregoing activities were engaged in by the defendant KUGLER in collaboration with the defendants who were members of the Vorstand of Farben. KUGLER thereby became an accomplice in the execution of a common plan or conspiracy to further the Nazi policy of aggrandizement to take from the peoples of other countries by force their land, their property, and their personal freedoms.

END



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Prosecution Final Brief, Parts I-V

(German)

**NATIONAL ARCHIVES MICROFILM PUBLICATIONS**

FINAL BRIEFS, PROSECUTION (GERMAN)  
PARTS I, II, III

MILITÄERGE RICHT E

DIE VEREINIGTEN STAATEN VON AMERIKA

- gegen -

KRAUCH und andere ( Fall VI )

ABSCHLIESSENDE SCHRIFTSATZ DER  
ANKLAGENBEHÖRDE

TEIL I

Allgemeine Bemerkungen bezüglich  
der persönlichen Verantwortung  
der Angeklagten.

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Teil I - Allgemeine Bemerkungen bezüglich der persönlichen  
Verantwortung der Angeklagten.

A. Einführung.

- (1) Der abschliessende Schriftsatz der Anklagebehörde wird in  
sechs Teile wie folgt unterteilt:

- Teil I - Allgemeine Bemerkungen bezüglich der persönlichen  
Verantwortung der Angeklagten.
- Teil II - Bestimmte Tathandlungen in der Vorbereitung von  
Angriffen.
- Teil III - Bestimmte Tathandlungen auf dem Gebiet von Raub  
und Plünderung.
- Teil IV - Bestimmte Tathandlungen auf dem Gebiet der Skla-  
venarbeit und des Massenmordes.
- Teil V - Bewertung gewisser Rechtfertigungen.
- Teil VI - Sonderbemerkungen und vorgelegte Tatsachenfest-  
stellungen bezüglich der persönlichen Verant-  
wortung jedes einzelnen Angeklagten.

- (2) In diesem Teil des Schriftsatzes (nämlich Teil I) wollen  
wir bestimmte allgemeine Feststellungen machen; in erster Linie  
hinsichtlich der Verantwortung der 19 Angeklagten, die Mit-  
glieder des Vorstandes der I.G. waren. Allgemein gesprochen,  
werden daher diese Feststellungen bei der Prüfung der Schuld  
aller Angeklagten mit Ausnahme von Dierrfeld, Gattineau, von  
der Heyde und Kugler von Bedeutung sein. In Teil II, III und  
IV werden wir dann fortfahren, bestimmte Tathandlungen zu be-  
sprechen, mit denen sich die Angeklagten bei der Vorbereitung  
Deutschlands auf einen Angriffskrieg befassten; mit der Aus-  
plünderung und Beraubung der chemischen Industrien Europas  
und mit der ungesetzmassigen Verwendung, Misshandlung und des  
Mordes an versklavten Personen. In Teil V wollen wir dann ge-  
wisse Rechtfertigungen, welche von Seiten der Angeklagten in  
diesem Fall vorgebracht worden sind, besprechen und auswerten.  
In Teil VI wollen wir dann fortfahren, bestimmte Sondertathand-  
lungen jedes einzelnen Angeklagten zur Ergänzung der mehr all-  
gemein gehaltenen Besprechung in Teil I, II, III und IV dieses  
Schriftsatzes zu behandeln.
- (3) In dem vorläufigen Schriftsatz der Anklagebehörde hat die  
Anklage ihre allgemeinen Auffassungen hinsichtlich der in den  
fünf Punkten der Anklageschrift zur Last gelegten Verbrechen  
dargelegt,

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und die Teile des Beweismaterials zusammengefasst, die als notwendig erachtet wurden, um diese Auffassungen zu untermauern und darzulegen. In Teil VI des vorläufigen Schriftsatzes wurden ebenfalls gewisse allgemeine Auffassungen von Verantwortlichkeit, besonders bezüglich der Vorstandsmitglieder, vorgebracht. In diesem abschliessenden Schriftsatz wird kein Versuch unternommen werden, alle Argumente zusammen mit ihren Unterlagen, wie sie im vorläufigen Schriftsatz vorgebracht wurden, zu wiederholen. Der vorläufige Schriftsatz sollte deshalb als ein Teil des abschliessenden Schriftsatzes angesehen werden.

- (4) Es soll hier betont werden, dass bei der Prüfung des Beweises bezüglich der Schuld jedes einzelnen Angeklagten nicht nur die Sondertätigkeit, wie in Teil VI dieses Schriftsatzes zusammengefasst, untersucht werden soll, es sollte vielmehr die Gesamtheit dieses Schriftsatzes (einschliesslich Teil I mit VI) zusammen mit dem vorläufigen Schriftsatz in Erwägung gezogen werden.
- (5) In diesem Teil I wollen wir zuerst allgemein die Art der Verantwortung der I.G. Vorstandsmitglieder fuer die Taten, die sie mittels der I.G. durchfuehrten, besprechen. Und dann wollen wir gewisse allgemeine Feststellungen hinsichtlich der Tätigkeit der Vorstandsmitglieder unter Punkt I, II, III und V der Anklageschrift machen.

B - Vorstandsmitglieder.

- (6) Jedes Vorstandsmitglied ( wie auch jeder der anderen vier Angeklagten ) ist unter Punkt I, II, III und V der Anklageschrift angeklagt. Dementsprechend umfassen die Beschuldigungen gegen jedes der Vorstandsmitglieder die folgenden:
- (a) Teilnahme an der Begehung von Verbrechen gegen den Frieden: Jedem Vorstandsmitglied wird eine wesentliche Verantwortung zur Last gelegt, ausschlaggebende Arbeit bei der Forderung der militaerischen Macht Deutschlands geleistet zu haben und zwar in Kenntnis dessen, dass eine solche militaerische Macht angewandt wurde und dass, wenn einmal der Angriff begonnen haette, er dazu dienen wuerde, die nationalsozialistische Expansionspolitik durchzufuehren und den Vaelkern anderer Laender ihr Land, Eigentum und persoenliche Freiheit wegzunehmen. Wie in dem vorlaeufigen Schriftsatz der Anklagebehörde betont wurde, sind die Behauptungen in

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Punkt II bezüglich Raub und Pluenderung und die Behauptungen unter Punkt III hinsichtlich Sklaverei und Massenmord ausdruecklich unter Anklagepunkt I als Taetigkeiten zusammengefasst, die einen wesentlichen Teil der Anstiftung, Planung, Vorbereitung und Fuehrung von Angriffskriegen und Invasionen auf andere Laender darstellen.

(b) Jedem Verstandsmitglied ist Teilnahme an der Begehung von Kriegsverbrechen \*/ zur Last gelegt worden, besonders bezueglich der Pluenderung von ceffentlichem und privatem Eigentum, Ausbeutung, Beraubung und anderer Vergehen gegen das Eigentum in Laendern und Gebieten, die im Verlauf von Invasionen und Angriffskriegen von Deutschland besetzt wurden.

(c) Unter Anklagepunkt III wird jedes Verstandsmitglied der Teilnahme an der Begehung von Kriegsverbrechen und Verbrechen gegen die Menschlichkeit beschuldigt, insbesondere bezueglich der Versklavung und Verschleppung von Zivilisten aus den von Deutschland besetzten Laendern und Gebieten zu Zwangsarbeit; der Versklavung von Konzentrationslager-Inassen; des ungesetzlichen Einsatzes von Kriegsgefangenen und der Misshandlung, Folterung und des Mordes von versklavten Personen.

(d) Unter Anklagepunkt V wird jedes Verstandsmitglied der Teilnahme an der Verschwörung, Verbrechen gegen den Frieden begangen zu haben, beschuldigt.

(7) Bei der Behandlung der verbrecherischen Verantwortung jedes Verstandsmitgliedes fuer Taetigkeiten, die mittels der I.G. durchgefuehrt wurden, wollen wir zunaechst allgemein die Art des Vorstandes und die Rolle, welche jeder Angeklagte im Vorstand und in seinen verschiedenen Ausschuessen und Stellen spielte, besprechen.

(8) Alle Angeklagten, mit Ausnahme von Duerrfeld, Gattimau, von der Heyde und Kugler, waren Verstandsmitglieder der I.G. Krauch war Verstandsmitglied bis 1940, zu welchem Zeitpunkt er Vorsitzender des Aufsichtsrates wurde.

\*/ Gemass Entscheid des Gerichtes vom 22. April 1948 ( Protokoll 12194, 12195) stellen die Beschuldigungen der Pluenderung und Beraubung keine Verbrechen gegen die Menschlichkeit dar.



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Schmitz war Vorsitzender des Vorstandes von 1935 bis 1945.

- (9) Es ist eine historische Tatsache, dass die Leitung der I.G. durch den Vorstand zwei Zeitspannen umfasst: eine vor 1938 und eine zweite von 1938 an. Der Grund fuer diese Aufteilung nach historischen Gesichtspunkten ist der, dass im Jahre 1938 das neue deutsche Recht fuer Aktiengesellschaften gewisse Aenderungen in der koerperschaftlichen Struktur vernahm. Vor 1938 bestand der I.G. Vorstand ungefaehr aus 80 Mitgliedern. Dieser grosse Vorstand ernannte einen Arbeitsausschuss von 26 Personen und uebertrug diesem die Leitung und Verantwortung des Vorstandes. Dieser Arbeitsausschuss bildete die verantwortliche Leitung der I.G. von 1925 bis 1937. (PE 330, PE 333, PE 334). Als im Jahre 1938 das neue deutsche Recht fuer Aktiengesellschaften in Kraft trat, wurde der Vorstand erheblich verkleinert. Der Arbeitsausschuss wurde aufgeloeset und seine Mitglieder wurden ordentliche Vorstandsmitglieder. (PE 330.) Der Vorstand nach 1937 "war der gleiche wie der Arbeitsausschuss vor 1937". (PE 338).
- (10) Innerhalb des Vorstandes bestand ein besonderer Zentralausschuss, der mit Sondervollmachten in Personalfragen und Fragen finanzieller Zuwendungen ausgeruestet war. (PE 330).
- (11) Zwelf der Angeklagten waren Mitglieder des Arbeitsausschusses des Vorstandes und wurden im Jahre 1938 Mitglieder des regularen Vorstandes, der an die Stelle des ersteren trat. Sie gehcerten ihm waehrend der ganzen Zeit von 1933 bis 1945 an (usser Krauch, der im Jahre 1940 Vorsitzender des Aufsichtsrates wurde). Diese waren: Schmitz, Bueteffisch, Gajewski, Horlein, Ilgner, von Knieriem, Krauch, Kuehne, Mann, ter Meer, Oster und von Schnitzler. Schneider wurde Mitglied des Arbeitsausschusses im Jahre 1937; Ambros und Wurster wurden Mitglieder am 1. Januar 1938. Als der ordentliche Vorstand im April 1938 an die Stelle des Arbeitsausschusses trat, wurden diese Angeklagten Mitglieder des ordentlichen Vorstandes. Ausserdem wurden die folgenden vier Angeklagten ordentliche Vorstandsmitglieder: Buergin, Haefliger, Jachne, Lautenschlaeger.
- (12) Sechs Angeklagte waren Mitglieder des Zentral-Ausschusses des Vorstandes waehrend der ganzen Zeitspanne von 1933 bis 1945 - Schmitz, Gajewski,

Hoerlein, Krauch, ter Meer und von Schnitzler. Von Knieriem und Schneider wurden im Jahre 1933 Mitglieder des Zentralausschusses.

- (13) Die innere Verwaltungsorganisation des Vorstandes und die Art, wie er arbeitete, zeigt, dass er dazu euserschen war, den Gesamtverband ueber die wichtigsten Probleme des Konzerns und ueber die Art und Weise der Durchfuehrung seiner Aufgaben zu unterrichten; und er hat das in Wirklichkeit auch getan. Auf Grund solcher Unterriechung wurden von Vorstand Handlungen genehmigt, gebilligt oder ratifiziert.
- (14) Auf der technischen Seite befand sich ueber den drei Hauptsparten und als letztes Glied zwischen den Betrieben und dem Vorstand der Technische Ausschuss des Vorstandes, der T.E. Der T.E. bestand aus den fuchrenden technischen Personenlichkeiten der I.G., einschliesslich der technischen Mitglieder des Vorstandes, den Leitern der grossen Werke und den fuchrenden Ingenieuren der drei Sparten (PE 334). Der Angeklagte ter Meer war Vorsitzender des T.E. waehrend der ganzen Zeitspanne von 1933 bis 1945. Die folgenden Angeklagten waren Mitglieder des T.E. waehrend der ganzen Zeit von 1933 bis 1945: Gajowski, Hoerlein, Krauch, Kuehne und Jachne. Die folgenden Angeklagten wurden Mitglieder des T.E. im Jahre 1936: Ambros, Buotofisch, Buergin, Lautenschlaeger, Schneider und Wuerster. Buotofisch und Schneider waren von 1933 bis 1936 regelmassige Gaeste bei den T.E.-Besprechungen, zu welcher Zeit sie dann Mitglieder wurden. Buergin wurde im Jahre 1937 ein regelmassiger Besucher der T.E.-Besprechungen. Schmitz, von Schnitzler und von Knieriem waren regelmassige Gaeste bei den T.E.-Besprechungen in der Zeit von 1933 bis 1945.
- (15) Zusammenkuenfte des Vorstandes wurden regelmassig 7 oder 8 x im Jahre abgehalten. Sie begannen gewoehnlich mit einem Bericht von Schnitzlers, des Vorsitzenden des Kaufmaennischen Ausschusses, ueber die Besprechung des Kaufmaennischen Ausschusses (siehe Paragraph 20 unten), die normalerweise zwei Tage vor dem Zusammentritt des Vorstandes stattfand. Dann berichtete ter Meer, der Vorsitzende des T.E., ueber die Sitzung des T.E., die normalerweise an dem der Vorstandssitzung vorausgehenden Tag abgehalten wurde. Dann wurden andere Dinge besprochen, und zum Schluss wurde von Schmitz ein Bericht gegeben ueber das, was in der Zentral-Ausschuss-Sitzung tags zuvor beschlossen worden war, der eine Aufzuehlung ueber die vom Zentral-Ausschuss genehmigten Zuwendungen enthielt (PE 330 und Protokoll Seite 6760 bis 6762).

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Der Angeklagte ter Meer hat zugegeben, dass die Vorstandsmitglieder einen allgemeinen Ueberblick ueber den gesamten Geschaeftsverlauf hatten, sagt jedoch, dass "es waehrend der Vorstandssitzungen, die nur ein paar Stunden dauerten, vollkommen unmoeglich war, auf allzu viele Einzelheiten einzugehen." (Protokoll, S. 6764). Die Vorstandsmitglieder wurden aus einem Kreise von Personen ausgewaehlt, "die sich innerhalb der IG aktiv betaetigt hatten, in der IG aufgewachsen, . . . dort ausgebildet worden waren, uns persoenlich durch die Zusammenarbeit mit Ausschuessen und Unterausschuessen bekannt waren und die wir, abgesehen von ihren kaufmaennischen und technischen Faehigkeiten, auch genau hinsichtlich ihres Charakters kannten." (Aussage ter Meer, Protokoll, S. 6767). Entscheidungen, die in den TEA-Sitzungen getroffen worden waren, "wurden niemals zurueckgezogen, noch wurden entscheidende Aenderungen durch den Vorstand vorgenommen." (AE 330). Es war nicht einmal erforderlich, dass ueber Beschluesse des Vorstands formell abgestimmt wurde. (AE 330).

(16) Angelegenheiten, die sich auf die Produktion bezogen, einschliesslich des Baues neuer Anlagen, der Erweiterung alter Anlagen, die wissenschaftlichen und technischen Gesichtspunkte der Produktion, einschliesslich der Entwicklung neuer Produkte, Beschaffung von Arbeitskraeften, etc., waren Sache des TEA und unterlagen der Billigung des Vorstands. Alle Beschluesse des TEA waren von der endgueltigen Genehmigung des Vorstands abhaengig. (AE 337, AE 342, Protokoll, S. 6779, 6780). Dem TEA unterstanden eine Anzahl technischer Unterausschuesse, die ihm verantwortlich waren. (AE 372). Die Entscheidungen dieser Unterausschuesse (von denen einige sich mit kaufmaennischen Angelegenheiten befassten) wurden dem TEA zur Genehmigung unterbreitet und gingen dann an den Vorstand. Da alle Sitzungen unmittelbar aufeinander folgten, "waren die Eindruecke der Leute, die dem Vorstand Bericht erstatteten, frisch, und man kann wohl sagen, dass der gesamte Vorstand ueber alle wichtigen Angelegenheiten gut informiert war." (AE 372, siehe Protokoll, S. 1633 bis 1635).

(17) Dem TEA unterstanden die drei Sparten oder Hauptgruppen, die im Jahre 1929 gegruendet wurden, um grossere Produktions- und Forschungsleistungen und eine bessere Zusammenarbeit mit den einzelnen Anlagen zu erzielen. Jeder dieser Sparten stand ein fuehrendes Vorstandsmitglied vor. Der Bereich jeder Sparte richtete sich in erster Linie nach den Produkten und nicht nach den Anlagen oder der geographischen Lage der Werke. Daher unterstanden eine Anzahl von Anlagen,



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die mehrere Produkte herstellten, der technischen Aufsicht und Leitung mehrerer Sparten. Sparte I umfasste Stickstoff, synthetische Treibstoffe und Schmieröle sowie Kohle. Von 1929 bis 1938 war der Angeklagte Krauch Chef der Sparte I. Im Jahre 1938 wurde der Angeklagte Schneider Chef von Sparte I, und der Angeklagte Buettel wurde stellvertretender Leiter. Sparte II umschloss Buna, Leichtmetalle, Farben und Farbenzwischenprodukte, pharmazeutische Produkte, verschiedene organische und anorganische Chemikalien und chemische Kampfstoffe. Von 1929 bis 1945 war der Angeklagte ter Meer Chef der Sparte II. Sparte III umfasste Sprengstoffe (DAG, usw.), photographische Artikel, Kunstfasern, Celluloseprodukte und verschiedene andere Produkte (einschliesslich der von Kalle & Co. hergestellten.) Der Angeklagte Gajowski war Chef der Sparte III von 1929 bis 1945.

(18) Gerade nach der Fusion im Jahre 1925 verliess sich die IG in grossem Masse auf ein allgemeines Zusammenwirken zwischen Werksgemeinschaften, die mehr oder weniger ihrer geographischen Lage nach gruppiert waren. Nach der Schaffung der Sparten im Jahre 1929 verringerte sich das Ausmass der Koordinierung der Anlagen in den Werksgemeinschaften hinsichtlich technischer Probleme grossen Massstabs. Ihre Funktionen auf verwaltungstechnischem Gebiet verloren nicht an Bedeutung. Der Angeklagte Kuehne war Chef der Gemeinschaft Niederrhein von 1933 bis 1945. Der Angeklagte Lautenschlaeger war Chef der Gemeinschaft Maingau von 1933 bis 1945, und der Angeklagte Jachne war stellvertretender Chef der Gemeinschaft Maingau von 1938 bis 1945. Der Angeklagte Baergin war Chef der Gemeinschaft Mitteldeutschland von 1938 bis 1945. Der Angeklagte Jürster war Chef der Gemeinschaft Oberrhein von 1940 bis 1945.

(19) Die Hauptanlagen unterstanden gewöhnlich der Leitung eines Vorstandsmitgliedes, das sein Hauptbureau bei dem Standort der Anlage hatte. In manchen Fällen waren jedoch mehrere Vorstandsmitglieder mit der Leitung der verschiedenen technischen Abteilungen innerhalb einer Anlage betraut; und in einigen Fällen hatte ein Vorstandsmitglied die Oberaufsicht ueber mehrere Werke. In den Fällen, in denen der oertliche Leiter einer Anlage kein Mitglied des Vorstandes war, erhielt er seine Direktiven und Instruktionen von dem Leiter der Sparte, dem Leiter der zuständigen Werksgemeinschaft oder durch den Vorstand ueber andere Koordinierungs- und Aufsichtsstellen.

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Dem Angeklagten Lautenschlaeger unterstand die Anlage Hoechst (verschiedene chemische Produkte). Der Angeklagte Bucrgin hatte die Leitung von Bitterfeld (Magnesium, Aluminium und andere Produkte). Der Angeklagte Gajowski hatte die Leitung der Filmfabrik Wolfen (photographische Artikel und andere Produkte). Dem Angeklagten Kuehne unterstand Leverkusen (verschiedene chemische Produkte). Dem Angeklagten Hoerlein unterstand Elberfeld (Sera, pharmazeutische Produkte und Impfstoffe, Giftstoffe). In der Anlage Auschwitz war der Angeklagte Daerrfeld der oertliche Leiter; der Angeklagte Ambros hatte die Aufsicht ueber Vorbereitungen fuer die Buna-Produktion; und der Angeklagte Buotefisch hatte die Aufsicht ueber Vorbereitungen fuer die Produktion von synthetischen Treibstoffen. Buotefisch unterstand die Buna Anlage (synthetisches Benzin und andere Produkte). In Ludwigshafen war der Angeklagte Ambros der Leiter der organischen Produktion (Buna und andere Produkte), und dem Angeklagten Wurster unterstand die anorganische Produktion.

(20) Auf kaufmaennischem Gebiet liegen die Verkaufsorganisationen, die der Leitung von vier grossen Verkaufsgemeinschaften unterstanden; von denen jede von einem Vorstandsmitglied geleitet wurde. Um bei der Aufrechterhaltung der Koordinierung von kaufmaennischen Angelegenheiten behilflich zu sein, wurde nach der Fusion im Jahre 1925 ein kaufmaennischer Ausschuss gebildet. Dieser urspruengliche Kaufmaennische Ausschuss verlor allmaechlich an Bedeutung und war etwa im Jahre 1933 vollkommen inaktiv. Zwischen 1933 und 1937 wurde die Koordinierung fast ausschliesslich in Vorstandssitzungen oder besonderen Besprechungen der daran interessierten kaufmaennischen Vorstandsmitgliedern durchgefuehrt. Wegen der anwachsenden Probleme der wirtschaftlichen Mobilmachung, der sich steigenden Anzahl von Anordnungen eines rapid aufruestenden Staates, der Notwendigkeit einer Koordinierung der Auslandsagenten der IG und anderer Probleme, die durch die ausserordentlich intensivierte Kriegsvorbereitungen hervorgerufen worden waren, wurde im August 1937 der Kaufmaennische Ausschuss neu gebildet. (AE 360, AE 361). In den Sitzungen des Kaufmaennischen Ausschusses wurden wichtige Fragen der Geschaeftsfuehrung behandelt, und die getroffenen Entscheidungen wurden dem Vorstand zur Billigung berichtet. Von 1937 bis 1945 waren fuerf der Angeklagten Mitglieder des Kaufmaennischen Ausschusses - der Angeklagte von Schnitzler als Vorsitzender und die Angeklagten Haefliger, Ilgnor, Mann und Oster. (Der Angeklagte Auglor, der ein Titulardirektor und nicht Vorstandsmitglied war, war von 1940 an Mitglied des Kaufmaennischen Ausschusses). Die Angeklagten Schmitz und von Knieriem wohnten den Sitzungen des Kaufmaennischen Ausschusses regelmassig als Gaeste bei,

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und auch einige führende technische Persönlichkeiten, insbesondere Meer und Gajewski, waren ziemlich häufig bei den Sitzungen des KA anwesend. (AE 360). Um die Worte des Angeklagten Krauch zu gebrauchen, "alle Angelegenheiten bezüglich der Geschäftsführung der IG, ganz gleich, ob es sich um technische, Produktions- oder Handelsangelegenheiten handelte, wurden im TEA und KA eingehend erörtert, so dass die Vorstandsmitglieder, die an diesen Ausschusssitzungen teilnahmen, über alle Projekte, die der Genehmigung des Vorstands bedurften, vollkommen informiert wurden, worauf diese Projekte einer Vollversammlung des Vorstandes vorgelegt wurden. TEA und KA hatten keine Befugnis, Beschlüsse zu fassen. Ihre Aufgabe war lediglich Prüfung der Sachlage und Unterbreitung von Empfehlungen. Der Vorstand handelte jedoch meistens ihren Empfehlungen entsprechend." (AE 338). Der Zeuge von Heider erklärte: "Die Verkäufe der IG-Erzeugnisse, einschliesslich der Verkäufe an die Reichsregierung, wurden von den Verkaufsgemeinschaften getätigt .... Der Leiter jeder Unterabteilung der Verkaufsgemeinschaft Chemikalien, der ein bestimmtes IG-Produkt verkaufte, war mit den Technikern der IG Farben, die dieses Produkt erzeugten, in ständiger Verbindung ... Entsprechend der engen Verbindung zwischen der Verkaufsgemeinschaft und den Betrieben, bestand eine enge Verbindung zwischen den verschiedenen Betrieben, sowie zwischen den verschiedenen Verkaufsgemeinschaften. Aus dem Vorstehenden ergibt sich, dass trotz der von der IG immer wieder betonten Dezentralisation, der ganze Konzern wie eine grosse, gut ausgerichtete Einheit arbeitete." (Eidesstattliche Erklärungen von Heider, AE 372).

(21) Es ist daher klar, dass jeder, der Mitglied des Vorstandes der IG war, in hinreichendem Masse sowohl in Bezug auf Beteiligung als auch in Bezug auf sein Mitwissen mit der Tätigkeit, die durch die Farbenorganisation erfolgte, verbunden war, so dass er für diese Tätigkeit strafrechtlich zur Verantwortung gezogen werden kann. Die Tatsache, dass ein bestimmtes Vorstandsmitglied die Führung in einem bestimmten Tätigkeitsbereich übernommen hat, vermag nichts daran zu ändern, dass alle Vorstandsmitglieder für diese Tätigkeit strafrechtlich verantwortlich sind. Es muss auch berücksichtigt werden, dass manche dieser Tätigkeiten an und für sich vollkommen unbedenklich waren." Wenn sie jedoch einen Teil der Gesamtheit aller Tätigkeit darstellen, auf die Bezug genommen wird" (vergleiche American Tobacco Co. vs U.S. 328 US 781, 1946), dann sind diejenigen, die sich an diesen Tätigkeiten im Bewusstsein des gesamten verbrecherischen Programms beteiligt haben, ebenso schuldig wie die,



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die sich an gewissen anderen Taten, die einen Teil dieses Programms darstellen, beteiligt haben moegen, an Taten, die an und fuer sich verbrecherischer Natur waren. Das Beweisverfahren ergab, dass, sowohl den Statuten der IG gemass wie auch in der tatsaechlichen Praxis, ein Vorstandsmitglied, wenn es ein spezielles Taetigkeitsgebiet verwaltete, an Stelle des Vorstands handelte, dem Vorstand regelmassig ueber seine Taetigkeit berichtete, und dass seine Handlungen entweder von dem Vorstand urspruenglich genehmigt, gebilligt oder spaeter ratifiziert wurden. Gleichzeitig erteilte jemand, dem ein spezielles Taetigkeitsgebiet unterstand und der selbst Vorstandsmitglied war, seine Genehmigung, Billigung oder Ratifikation fuer Taetigkeiten, die in das Ressort anderer Vorstandsmitglieder fielen.

(22) Der interne Verwaltungsapparat, der von dem Vorstand geschaffen worden war, wie z.B. der TEA und KA, war dazu bestimmt, gewissen Vorstandsmitgliedern die Moeglichkeit zu geben, die Leitung eines besonderen Taetigkeitsgebietes zu uebernehmen, waehrend er gleichzeitig dem Vorstand die Moeglichkeit bot, die Geschaeftspolitik festzulegen, bestimmte Handlungen zu billigen oder zu ratifizieren und ueber alle Angelegenheiten, die fuer den Konzern von Bedeutung sind, auf dem Laufenden zu bleiben.

(23) Der Angeklagte von Anierien, der allgemeine Rechtsberater der IG, erklaerte als Zeuge, dass von einer einzigen Ausnahme abgesehen, keinerlei Abstimmungen bei den Sitzungen des IG-Vorstands stattfinden; dass es ueblich war, bei den Vorstandssitzungen keinerlei Abstimmung vorzunehmen, sei allgemein so aufgefasst worden, dass die Politik bzw. die Handlungen des Vorstands, ueber die Bericht erstattet wurde, als gebilligt angesehen wurden, wenn keinerlei Einwendungen erhoben wurden; dasselbe waere im allgemeinen auch bei den Sitzungen des TEA der Fall gewesen; der Vorstand habe auch die Aufgabe gehabt, Meinungsverschiedenheiten, die auf Grund der Statuten des Vorstands beigelegt werden konnten, wenn erforderlich durch formelle Abstimmung beizulegen - die Mehrheit war entscheidend, und bei Stimmengleichheit entschied die Stimme des Vorsitzenden. (Protokoll, S. 6714-6715).

(24) Die Tatsache, dass ein Angeklagter Mitglied des IG-Vorstandes war, ist demgemass in zweierlei Hinsicht von ausschlaggebender Bedeutung. Erstens bedeutete es, dass er eines der Mitglieder des Gremiums war, das die Geschaefte der IG fuehrte und in bedeutendem Ausmasse an der Taetigkeit, die durch die IG ausgeuebt wurde, Anteil hatte.

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Zweitens bedeutete es, dass alle Angelegenheiten, die fuer die IG von Bedeutung waren, zu seiner Kenntnis gelangten, selbst wenn er viele verwaltungstechnische Einzelheiten bezgl. dieser Angelegenheiten nicht kannte. (Er hatte sie jedoch leicht feststellen koennen.)

(25) Es ist jedoch nicht die Ansicht der Anklagebehörde, dass die Mitgliedschaft in IG-Vorstand eine Person automatisch fuer die verbrecherische Tätigkeit, die waehrend seiner Mitgliedschaft von der IG entfaltet wurde, strafrechtlich verantwortlich macht. Jeder Angeklagte hier ist fuer seine individuelle Teilnahme an den hier unter Anklage stehenden Verbrechen angeklagt. Wir behaupten nicht, dass das Kontrollratsgesetz No. 10 eine Gemeinhaftung im strafrechtlichen Sinne vorsieht. Wir sind der Ansicht, dass das Beweismaterial bezgl. der Tätigkeit und des Aufbaues der IG ueber jeden begruendeten Zweifel hinaus darlegt, dass jeder einzelne der Angeklagten, die Mitglieder des Vorstandes waren, sich der unter Punkt I, II, III und V unter Anklage gestellten Verbrechen schuldig gemacht hat. Wir glauben, dass das Beweismaterial ueber jeden begruendeten Zweifel hinaus beweist, dass bezgl. jedes der Angeklagten, die Mitglieder des Vorstandes waren, der objektive und subjektive Tatbestand gegeben war, also die Erfordernisse einer individuellen Schuld gegeben sind. Wir werden jetzt dazu uebergehen, kurz die Gruende darzulegen, warum wir behaupten, dass jeder der Vorstands-Angeklagten sich jedes der vier Anklagepunkte schuldig gemacht hat.

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(26) Die Theorie der Anklagebehörde bezgl. des objektiven und subjektiven Tatbestandes, der erforderlich ist, um eine Person als eines Verbrechens gegen den Frieden schuldig zu ueberfuehren, ist in unserem Vorlaeufigen Schriftsatz dargelegt worden und wurde eingehender in unserer Antwort vom 5. Januar 1948 auf den Antrag der Verteidigung zur Nichtschuldigsprechung bezgl. der Punkte I und V entwickelt. Die Anklagebehörde stellt die Behauptung auf, dass das Beweismaterial ueber jeglichen begruendeten Zweifel hinaus feststellt, dass bei jedem der Vorstands-Angeklagten der erforderliche objektive und subjektive Tatbestand gegeben ist.

(27) Das waehrend dieses Prozesses vorgelegte Beweismaterial beweist ueberzeugend, dass alle die in der Anklageschrift aufgefuehrten Verbrechen begangen wurden. Diese Tatsache ist klar und kann nicht bezweifelt werden.

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Jeder Satz der Anklageschrift, abgesehen von einigen unbedeutenden Ausnahmen, ist mit einer Unmenge von Beweisen belegt worden. Es bleibt die Frage zu beantworten, ob das Beweismaterial eine hinreichende Verbindung zwischen jedem der Angeklagten und den von der IG ausgeübten verbrecherischen Tätigkeiten erwiesen hat.

(28) Die von der IG begangenen Verbrechen waren nicht die Handlungen einer seelenlosen, leblosen juristischen Person - eines Statuts und der Durchführungsbestimmungen. Sie waren in der Tat und vor dem Gesetz die Handlungen von Einzelpersonen, die Handlungen der verantwortlichen Leiter, deren Leitung und Kontrolle diese juristische Person tatsächlich unterstand. Obwohl die IG einen Riesenkonzern darstellte, war sie nicht ein Roboter, der von selbst lief. Sie wurde von Männern geleitet, und ihre verantwortlichen Direktoren waren die Mitglieder des Vorstands. Jeder technische Flusss eines "Gesellschaftsrechtes" noch die Behauptung einer mangelnden Kenntnis dieser oder jener Einzelheit auf seiten eines einzelnen Vorstands-Angeklagten koennen die entscheidende Tatsache verschleiern, dass die im Namen der IG begangenen Verbrechen Verbrechen dieser Angeklagten sind, die tatsächlich die IG darstellten.

(29) Es koennte die Behauptung aufgestellt werden, dass jeder der Angeklagten bestimmte Verantwortungen auf bestimmten Gebieten hatte und dass, obwohl das Gesamtprogramm der IG waehrend dieser Jahre eindeutig verbrecherischer Natur war, die Beteiligung der einzelnen Angeklagten innerhalb ihrer speziellen Gebiete nicht eine hinreichende Beteiligung an diesem verbrecherischen Programm darstellt. Diese Behauptung ist unhaltbar. Es wurde zugegeben, dass gewisse Vorstandsmitglieder auf gewissen Gebieten eine fuehrende Rolle spielten, wie z.B. ter Meer und Ambros im Zusammenhang mit synthetischem Gummi, Krauch und Bueteufisch im Zusammenhang mit dem synthetischen Gel-Programm, Buergin und Haefliger im Zusammenhang mit Leichtmetallen, Krauch, Schmitz, ter Meer, Ambros, Buergin, Cajewski, Schneider, Wurster und Bueteufisch im Zusammenhang mit der Botreibung des Vierjahresplanes, von Schnitzler, Mann, Schmitz, Gattineau, Ilmer und von der Hayde im Zusammenhang mit bestimmten Gebieten der Propaganda, des Informationsdienstes und der Spionage, Schmitz, ter Meer, von Knieriem, Ambros, Bueteufisch, Schneider und Wurster im Zusammenhang mit bestimmten Phasen der Bevorratung unter der Schwachung von anderen Laendern mit Hilfe internationaler



Kartelle, von Schnitzler, ter Meer und von Knieriem im Zusammenhang mit bestimmten Gebieten der Tarnung und des Schutzes von ausländischen Guthaben fuer die Fuehrung eines Angriffskrieges, Krauch, ter Meer, Wurster, Ambros und Hoerlein im Zusammenhang mit Kampfstoffen, und schliesslich Schmitz, von Schnitzler, ter Meer, Menn, Ilgner, von Knieriem und Kuegler im Zusammenhang mit der "Neuen Ordnung", us.w. Die Tatsache jedoch, dass diese Maenner solch eine fuehrende Rolle auf diesen bestimmten Sachgebieten spielten, bedeutet nichts dafuer, dass jeder einzelne der Vorstandsmitglieder fuer all diese Tuetigkeiten verantwortlich ist, und dass sie von allen wichtigen Funktionen dieser Tuetigkeiten Kenntnis hatten, sie billigten und guthiessen.

(30) Wie wir gesehen haben, waren zwouf Angeklagte Mitglieder des IG-Vorstandes waehrend der ganzen zwouf Jahre von 1933 bis 1945, (Krauch, der von 1940 bis 1945 Vorsitzender des Aufsichtsrates war, bildete eine Ausnahme). Die anderen sieben Angeklagten waren im April 1938 Vorstandsmitglieder und verdanken ihre Ernennung den fuehrenden Rollen, die sie in den vorangegangenen Jahren bei der Geschaeftsfuehrung der IG spielten. Wir haben deshalb eine Gruppe von 19 Personen vor uns, die zwouf Jahre lang zusammen arbeiteten und zu gleicher Zeit fuehrende Rollen auf ihren eigenen Spezialgebieten spielten, und so durch ihre gemeinsamen Bemuehungen es Deutschland ermoeglichten, sein Angriffsprogramm durchzufuehren, welches die Welt in den Krieg stuerzte.

(31) Die Tatsache, dass jeder Angeklagte eine eigene Aufgabe zu erfuellen hatte, erhoehet die Verantwortung jedes Angeklagten in Bezug auf das Gesamtprogramm. Denn ohne die Tuetigkeiten jedes einzelnen Angeklagten haette das ganze Programm nicht verwirklicht werden koennen.

Krauch wurde die fuehrende Persoenlichkeit der Regierung auf dem Gebiete der chemischen Produktion, und er benutzte diese Stellung, das Programm der IG einer Vergruesserung gleichzeitig mit dem Naziprogramm einer Vergruesserung zu foerdern.

Schmitz als Leiter des obersten IG-Organs hatte die allgemeine Aufsicht ueber die Geschaeftsfuehrung der IG und hatte die oberste Kontrolle ueber alle Finanzangelegenheiten. Seine Beziehungen zur Regierung (er war Mitglied von Goerings Sachverstaendigenausschuss und Mitglied des Reichstags) ermoeglichte es ihm, dafuer zu sorgen, dass sich die IG an dem Kriegsgeschaeft ausserordentlich bereicherte.

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Von Schnitzler brachte, als Chef des kaufmännischen Ausschusses, die Geschäftsinteressen von Farben in Einklang mit den Nazi - Vorbereitungen fuer Angriffskriege, und nachdem die Angriffskriege begonnen hatten, sorgte er dafuer, dass Farben mehr als ihren Anteil an der Beute des Sieges erhielten.

Ter Meer, als der beste Techniker von Farben, traegt eine besondere Verantwortung fuer das gesamte Produktionsprogramm von Farben, ebenso spielte er auch eine besondere Rolle in dem kuenstlichen Kautschuk Programm von Farben (einschliesslich der Foerderung der Entwicklung innerhalb Deutschlands und der Verhinderung der Entwicklung im Ausland).

Gajowski, der als Chef der Sparte III eine fuehrende Rolle auf dem Gebiete von Schiesspulver und Explosionsmitteln innehatte und der die Erzeugung von Kunstfasern, Kunstseide, Seide und photographischen Materialien mit den Erfordernissen des Krieges in Uebereinstimmung brachte.

Schneider, der die Fuehrung der Sparte I uebernahm als Krauch 1936 in die Regierung berufen wurde. Er hatte die oberste Aufsicht ueber Farben's Erzeugung von Hydriertreibstoff, kuenstlichen Stickstoff und kuenstlichen Methanol inne.

Hoerlein, ein Mitglied des Vorstandes, des Zentral Ausschusses und der TL. waehrend der ganzen Zeit von 1933 bis 1945, spielte eine fuehrende Rolle auf dem Gebiete der Impfstoffe, Sera, Pharmazeutika und Giftgase.

Von Knieriem, ein Mitglied des Vorstandes waehrend der ganzen Zeit von 1933 bis 1945, war der oberste Anwalt von Farben.

Ambros spielte eine fuehrende Rolle auf dem Gebiete von kuenstlichen Kautschuk, Schiesspulver und Explosionsmitteln; er war der oberste Techniker, der Farben's Erzeugungsprogramm fuer chemische Kampfstoffe leitete.

Buetefisch spielte eine fuehrende Rolle bei der Entwicklung und Erzeugung von Hydriertreibstoff, kuenstlichen Stickstoff und kuenstlichen Methanol.

Buergin spielte eine fuehrende Rolle als Techniker auf dem Gebiete der Leichtmetalle und anderer kriegswichtiger Produkte.

Haefliger war der Geschaeftsmann, der besonderes Interesse auf dem Gebiete der Leichtmetalle hatte, und er war der Angeklagte, der seine Schweizer Staatsbuergerschaft beibehielt, um als "Neutraler" Farben's Interessen zu schuetzen, als der Krieg kam.

Ilgner, mit Mann zusammen, foerderte und lenkte die Propaganda-, Nachrichten- und Spionagetatigkeit von Farben.

Lautenschlaeger war der Chef der Maingau-Gemeinschaft, und er teilt die Verantwortung mit Jaehne fuer die Leitung und Fuehrung der Hauptfabrik von Farben in Hoechst, durch die eine Anzahl von Farbens Betaechtigungen auf technischen Gebiete (Probleme auf dem Gebiete des Ingenieurwesens, Bauwesens, Schutzmassnahmen gegen Flugangriffe usw.) in Uebereinstimmung gebracht wurden. Lautenschlaeger war ein Specialist auf den Gebieten der Pharmazutika, Sera und Impfstoffe.

Jaehne war der stellvertretende Chef der Maingau-Gemeinschaft von Farben, und teilt die Verantwortung mit Lautenschlaeger fuer die Leitung und Fuehrung von Hoechst; er war der oberste Ingenieur von Farben und an der Spitze der TEKO.

\*v. 1933 bis 1945 Kuehne, ein Mitglied des Vorstandes und der TEA waehrend der ganzen Zeit, war der Chef der Betriebsgemeinschaft Unterrhein und Betriebsfuhrer in Leverkusen; er hatte die unmittelbare Aufsicht ueber eine Anzahl von wichtigen Kriegserzeugnissen.

Mann, ein kaufmaennisches Mitglied des Vorstandes waehrend der ganzen Zeit von 1933 bis 1945, hatte die Aufsicht ueber die Vertreter von Farben und deren Agenturen in 75 Laendern der Welt; er spielte eine fuehrende Rolle auf den Gebieten der Propaganda, des Nachrichtendienstes und der Spionage.

Oster, ein kaufmaennisches Mitglied des Vorstandes waehrend der ganzen Zeit von 1933 bis 1945, war ein Specialist auf dem Gebiete des Stickstoffes; als Leiter des Stickstoff-Syndikates brachte er die Interessen von Farben in Einklang mit dem Programm der Regierung.

Wurster war (zusammen mit Amros) fuer die Planung der Erzeugung in den Ludwigshafen-Opau Fabriken verantwortlich; er war der oberste Techniker von Farben auf anorganischem Gebiet.

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(32) Jeder Angeklagte spielte seine bestimmte Rolle bei der Ausfuhrung des Gesamtprogrammes und hat bewusst die Gesamtplanung gutgeheissen, bewilligt, genehmigt und bestaetigt.

(33) Die Bestaetigungsbereiche, fuer welche der Vorstand der Farben verantwortlich war, waren fuer Deutschlands Vorbereitung von Angriffskriegen unentbehrlich und spielten darin eine Hauptrolle. Und jeder einzelne der Vorstandsmitglieder wusste, dass diese Taetigkeit zur Vorbereitung von Angriffskriegen diente. Die Tatsache, dass



jeder einzelne der Angeklagten des Vorstandes die Nazi-Politik der Angriffskriege bewusst gefordert hat, ist ebenso klar wie die Tatsache, dass sie daran teilgenommen haben.

(34) Der Angeklagte Kuehne, in seinen Schreiben an den Angeklagten Schmitz im Oktober 1941, beschrieb die Erfolge der Vorstandsmitglieder von Farben in einem Abschnitt. Am Schlusse seines Briefes schreibt er: (PE 2064).

"Zum Schluss seiner laengeren Ausfuehrungen, ueber die ich Ihnen vielleicht noch einmal mundlich berichten kann, sagte Herr Funk folgendes: Er fuehle sich doch gezwungen, auf die Ausfuehrungen von Herrn Pleiger und auf meine Ausfuehrungen zurueckzukommen. Selbstverstaendlich sei Kohle, Kanonen und Materialbeschaffung zum Kriege noetig, und die Bedeutung der Industrien solle nicht herabgesetzt werden. Eins wolle er aber ausdrucklich feststellen, ohne die deutsche I.G. und ihre Leistungen haette dieser Krieg nicht gefuehrt werden koennen. Sie koennen sich denken, dass ich Herrn Funk darueber sehr erfreut, in Namen der ganzen I.G. meinen Dank aussprach."

(35) Wir beschrieben in der vorlaufigen Anklageschrift der Anklagebehoerde gewisse Taetigkeiten dieser Angeklagten der Jahre von 1933 bis 1945 die, wenn man sie mit den Ereignissen, die waehrend dieses Zeitabschnittes in Deutschland stattgefunden haben, vergleicht, ueber jeden begruendeten Zweifel hinaus erweisen, dass die Angeklagten gewusst haben, dass die militaerische Maschine, die sie aufbauten, fuer den Zweck benuetzt werden wurde, um eine voelldische Politik der Expansion zu betreiben, um fremden Voelkern ihr Land, ihr Eigentum und ihre persoenliche Freiheit zu nehmen. Seit dem Abschluss des Beweisvortrages der Anklagebehoerde, hat die Verteidigung, wie auch die Anklagebehoerde, eine betraechtliche Anzahl von weiteren Beweismitteln eingereicht, welche die Geistesverfassung dieser Angeklagten noch besser als bisher beleuchten. In den einzelnen Abschnitten des Teiles VI dieser Anklageschrift, - denen auf gewisse, besondere Taetigkeitsgebiete eines jeden Angeklagten Bezug genommen wird, werden wir einzelne hervorstechende Beweisunterlagen erwahnen, welche die Geistesverfassung der Angeklagten betreffen. An dieser Stelle moege es helfen, wenn wir ganz kurz die Art dieser Beweismittel oertern.

(36) Der Abschnitt des Teiles VI, welcher auf den Angeklagten Krauch Bezug nimmt, fasst eine betraechtliche Anzahl von Beweismitteln zusammen, welche den subjektiven Tatbestand betreffen. Seine Schuld folgt aus seiner Kenntnis, die er durch seine Stellungen in der Regierung erworben hat und aus seiner fuehrenden Rolle bei dem Wiederaufbauprogramm der

Nazi-Regierung und es folgt aus den bestimmten Kenntnissen, welche er durch die Teilnahme an verschiedenen wichtigen Sitzungen der Regierung erworben hat.

(37) Die Beweismittel, welche auf den subjektiven Tatbestand der beiden fuhrenden kaufmannischen Herren der Farben Bezug nehmen, naemlich auf die Angeklagten Schnitz und von Schnitzler, ist ebenso ueberweldigend, wie die Beweismittel, welche auf die Geistesverfassung des Angeklagten Krauch treffen. Dank seiner fuhrenden Stellung in Farben und seiner Stellungen in der Regierung hatte der Angeklagte Schnitz ebenso gute Informationsquellen wie der Angeklagte Krauch (mit dem er in staendiger Verbindung stand). Selbst wenn man die Gestandnisse des Angeklagten von Schnitzler vollstaendig uebersieht, so zeigt die Beweisfuhrung, welche auf seine Taetigkeit als den hoechsten kaufmannischen Angestellten von Farben Bezug nimmt, dass er gewusst hatte, dass das Wiederaufruestungsprogramm keinen anderen Sinn haben konnte als dass Deutschland Angriffskriege zu fuehren im Begriffe war; dies war ganz unabhangig von den bestimmten Kenntnissen, die er durch Teilnahme an verschiedenen wichtigen Sitzungen der Regierung erworben hat.

(38) Die uebrigen Mitglieder des Zentral-Ausschusses, naemlich Gajewski, Hoerlein, von Knieriem, Ter Meer und Schneider hatten besonders gute Kenntnisse ueber den Zweck des Wiederaufruestungsprogramms. Gajewski, Hoerlein und Ter Meer waren sowohl vollwertige Mitglieder des Zentralen Ausschusses, wie auch des Vorstandes waehrend des gesamten zweijaehrigen Zeitabschnittes von 1933 bis 1945. Der Angeklagte von Knieriem war waehrend dieser ganzen Zeit Vorstandsmitglied und der Angeklagte Schneider wurde in 1937 Mitglied des Arbeitsausschusses, nachdem er die Stellung Krauchs als Fuehrer der Sparte I uebernommen hatte. Abgesehen davon, dass er Mitglied des Zentralausschusses war, erweist Gajewski's enge Verbindung mit dem DAG seine Rolle im Wiederaufruestungsprogramm und die verschiedenen Betaeuigungsbe- reiche, die er zur Vorbereitung des Krieges unternahm, ueber jeden begruendeten Zweifel hinaus, dass er wusste, wozu es kommen wuerde. Von Knieriem hatte als der oberste Anwalt von Farben eine allgemeine Uebersicht ueber die Taetigkeit von Farben und wie dies in dem betreffenden Abschnitt des Briefes von Knieriem dar- gelegt wird, wusste er, wozu diese Taetigkeit diente. Der Angeklagte Hoerlein, als vollwertiges Mitglied des Zentral-Ausschusses, des Vorstandes und der TEL waehrend des ganzen zweijaehrigen Zeit- abschnittes, wusste genau, was der Zweck der Taetigkeit war, die er waehrend dieser Zeit guthies, bewilligte, genehmigte und be- staetigte.

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Der Angeklagte ter Meer <sup>hatte</sup> nachdem er der Chef des TMA und auch Mitglied des Zentralausschusses, war, eine umfassende Kenntnis der I.G.-Pertigung und ihrer Zwecke. Fernerhin zeigen gewisse Sondordokumente, die in Teil VI, im Absatz ueber den Angeklagten ter Meer angefuehrt sind, deutlich, dass er den Zweck und die Bedeutung dessen, was er tat, kannte. In diesem Zusammenhang sind die Eingestaendnisse des Angeklagten ter Meer in seiner eigenen eidesstattlichen Erklaerung besonders aufschlussreich. Der Angeklagte Schneider als Leiter der Sparte I sowie als Mitglied des Zentralausschusses, hatte nicht nur eine ausgedehnte Kenntnis der Unternehmen der I.G. und deren Zwecke, sondern war in einer besonders gunstigen Lage zu wissen, was kommen wuerde, auf Grund dessen, dass er mit dem Erzeugungsprogramm fuer Stickstoff, Benzin und Methanol betraut war.

(39) Auch die anderen Mitglieder des TMA, die nicht dem Zentralausschuss angehorte, waren sich im Klaren ueber das I.G.-Erzeugungsprogramm. So hatte der Angeklagte Ambros als Mitglied des Vorstandes und des TMA nicht nur eine allgemeine Kenntnis, sondern war auch besonders gut im Bilde ueber die Zwecke des Aufbauprogrammes kraft seiner Taetigkeit auf dem Gebiet des Buns, des Pulvers, der Sprengstoffe und Giftgase. Der Angeklagte Buetefisch hatte zusaeztzlich zu seiner Angehoerigkeit zum Vorstand, als unmittelbarer Produktionsleiter der Programme fuer synthetisches Benzin, Methanol und kuensstlichen Stickstoff, besondere Einsicht. Weiterhin laesst seine Betaeetigung, die im Jahre 1932 in Zusammenhang mit dem synthetischen Treibstoffprogramm der I.G. begann, und seine engen Beziehungen zu den Nazis, der SS und Himmlers Freundeskreis, keinen Zweifel ueber seine Einstellung. Die Angeklagten Jaehne und Lautenschlaeger, die nicht nur dem TMA und dem Vorstand angehorte, sondern die auch Betriebsfuhrer des Hoechstwerkes der I.G. waren, gewannen umfassende Kenntnis der Taetigkeit der I.G. auf dem Gebiet der Aufbaustellung, und wie der Beweis aufzeigt, waren sie ueber deren Zweck im Bilde. (Jaehne war richtiggehendes Mitglied des Vorstandes und des TMA waehrend der ganzen Zeitspanne von 12 Jahren). Ebenso klar ist das Beweismaterial, dass die Angeklagten Jaehne (Mitglied des Vorstandes und des TMA, Leiter einer I.G. Betriebsgemeinschaft und Betriebsfuhrer eines der Hauptwerke der I.G. in der Zeit von 1933 bis 1945 ),



Buergin (der zusaetzlich zu seiner Mitgliedschaft zum Vorstand besonders eingeweiht war in den Zweck des Leichtmetall- und anderer Kriegsprogramme) und Wurster (der zu seiner Mitgliedschaft zum Vorstand und T.L., besonders unterrichtet war ueber viele ausschlaggebende Kriegserzeugnisse in Ludwigshafen und Oppau), wussten, dass I.G.s. Kriegserzeugungsprogramm auf die Erfordernisse fuer einen Angriff abgestimmt war.

(40) In dieser Stelle duerfte die Frage gestellt werden: Wie war die Einstellung einiger der kaufmaennischen Mitglieder des Vorstandes, die keine so klare Einsicht in die Bedeutung des Erzeugungsprogrammes hatten wie einige der technischen Mitglieder? Zunaechst duerfte darauf hingewiesen werden, dass die kaufmaennischen Mitglieder waehrend vieler Jahre eng zusammen mit den technischen Mitgliedern als Teil einer Gefaehrtengruppe arbeiteten und es ist gaenzlich unerfindlich, dass der umfassende Zweck des I.G. - Erzeugungsprogrammes wurde oder koennte vor den kaufmaennischen Mitgliedern seitens der technischen Mitglieder geheim gehalten werden. Falls ueberzeugenderer Beweis fuer die Einstellung solcher kaufmaennischer Mitglieder benoetigt wird, wird auf die Sitzung des Kaufmaennischen Ausschusses vom 11. Maerz 1938 Bezug genommen, welche einen Tag vor dem Einmarsch der Nazis in Oesterreich gehalten wurde (PE 893). Ein Memorandum, das von dem Angeklagten Haefliger fuerfuehrt wurde, zeigt das blanke Minimum von dem, was selbst einer der am wenigsten prominenten Mitglieder ueber das Nazi-Angriffsprogramm wusste. Der Angeklagte Haefliger entwickelt in einigen Einzelheiten die Unterredung, welche bei dieser Sitzung, an der die Angeklagten Schnitz, von Schnitzler, Haefliger, Ilmer und Mann teilnahmen, stattfand. Mit den Worten des Angeklagten Haefliger (PE 2014):

"Vergegenwaertigen wir uns einen Augenblick die Atmosphäre, in welcher diese Sitzung stattfand, Schon um 9.30 Uhr waren uns die ersten alarmierenden Mitteilungen zugegangen. Dr. Fischer kam erregt von einem Telefongespraech zurueck, um uns zu berichten, dass die Gasolin Anweisung erhalten habe, die saemtlichen Benzinstellen in Bayern und im weiteren Sueddeutschland gegen die tschechische Grenze zu versorgen. Eine Viertelsteunde spaeter kam ein telefonischer Anruf aus Burghausen, wonach eine ganze Anzahl von Arbeitern bereits zu den Waffen eingezogen wurden, und in Bayern die Mobilisation in vollen Gange sei. Mangels offizieller Mitteilungen, die ja erst abends bekannt wurden, standen wir in der Ungewissheit, ob nicht gleichzeitig mit dem Einruecken nach Oesterreich, das fuer uns bereits feststand,

auch noch "der kurze Stoss" nach der Tschechoslowakei erfolgen wurde mit all\* den internationalen Komplikationen, die dadurch entfacht worden wuerden. Als Erstes liess ich mich sofort mit Paris verbinden, um meine Reise nach Cannes (Molybdaen-Vorhandlungen) abzusagen. Gleichzeitig legte ich Herrn Meyer-Kuester, der bereits in Paris war und mit dem ich telefonisch sprach, nahe, die Entwicklung genau zu ueberwachen und lieber zu frueh als zu spaet abzureisen. Des weiteren ersuchte ich ihn, Herrn Dr. Mayer-Wegelin, der ebenfalls schon in Paris eingetroffen war, zu veranlassen, noch am gleichen Abend zurueckzureisen. Unter diesen Umstaenden erhielt natuerlich die Besprechung der K-Angelegenheit ein hochaktuelles Gesicht. Es wurde uns mit einem Male klar, dass -wie ein Blitz aus heiterem Himmel- eine Angelegenheit, die man bisher mehr oder weniger theoretisch behandelt hatte, bluetiger Ernst werden koennte; und es wurde uns weiter klar, dass die Vorbereitungen, die wir bis jetzt fuer die Gruenewald getroffen haben, doch noch als recht mangelhaft bezeichnet werden muessen. Da ich bisher auf die K-Sache noch nicht vorbereitet war, wurde mir auch erst nachtraeglich, nachdem diese Voroidigung am 12. Maerz im Reichswirtschaftsministerium erfolgt war, Nacheres ueber die von uns getroffenen Massnahmen bekannt, auf die ich hier selbstverstaendlich nicht eingehen kann."

Obwohl der Angeklagte Oster (Vorstandsmitglied waehrend der ganzen 12 Jahre) bei dieser besonderen Zusammenkunft nicht zugegen war, geht aus dem Beweismaterial klar hervor, dass er genauso gut in dieser Hinsicht unterrichtet war wie seine kaufmaennischen Kollegen\*.

(41) Das Beweismaterial stellt ueber jeden begruendeten Zweifel hinaus fest, dass die Angeklagten des Vorstandes wissentlich eine gewichtige Rolle spielten in der Foerderung und Durchfuehrung der Nazipolitik, die nach Vergruesserung unter Anwendung von Gewalt strebte, um den Voelkern anderer Laender ihr Land, ihr Eigentum und ihre persoenliche Freiheit zu nehmen. Jeder Angeklagte, der Mitglied des Vorstandes war, beteiligte sich wissentlich an einem gemeinsamen Plan oder Verschwuerung, dieses Programm durchzufuehren. Wenn es jemals einen Fall gab, in dem eine Gruppe von Maennern in gegenseitigen Einvernehmen handelte, um dieses Ziel zu erreichen, so war es hier der Fall.

\* Auch aus den einzelnen Absatzen des Teiles VI bezueglich der Angeklagten Kuehne, Wurster und Buergin ist ersichtlich, dass diese drei Angeklagten zusammen mit Haefliger einer Sitzung des chemischen Ausschusses am 2. Maerz 1938 beiwohnten, in<sup>der</sup> ein Bericht ueber die Gruende gegeben wurde, "die zur Aufnahme von Verhandlungen betreffs einer Beteiligung an der Skoda Werke-Wetzlar A.G. fuehrten". Diese gleichen Angeklagten, naemlich Kuehne, Wurster und Buergin, nahmen an einer anderen Sitzung mit Haefliger am 5. April 1938 teil, kurz nachdem die Nazis Oesterreich in Besitz genommen hatten, bei welcher Sitzung Haefliger ueber seine Besprechung in Wien berichtete und von I.G. Plachen sprach, ungefaehr 70% zu erwerben, indem er auf "die guenstigeren Aussichten hinwies, welche der Anschluss fuer die Zukunft des Unternehmens gebracht hat."

Während mehrerer Jahre arbeiteten die neunzehn Angeklagten, die Mitglieder des I.G.-Vorstandes waren, eng zusammen, berieten sich fortlaufend bezüglich eines Programmes, das darauf hinauslief, gleichzeitig das Naziprogramm nach Vergrößerung und das I.G.-Programm nach Vergrößerung zu fördern. Wenn nicht die I.G. gewesen wäre, wäre die Wehrmacht nicht in der Lage gewesen, in andere Länder einzumarschieren, und wenn die Wehrmacht nicht in andere Länder einmarschiert wäre, hätten diese Angeklagten jene Länder nicht ihrer chemischen Industrie und Arbeitskräfte berauben können. Jeder dieser Angeklagten hatte seine eigene ausschlaggebende Rolle bei der Durchführung dieses verbrecherischen Programmes zu erfüllen.

(12) Man sollte beachten, dass das Beweismaterial, welches die in den Absätzen A und B des Anklagepunktes II vorgebrachten Einzelheiten feststellt, wesentlich fuer die unter Anklagepunkt I erhobenen Anklagen ist. Obwohl das Gericht entschieden hat, dass solche Einzelangaben keine Verbrechen gegen die Menschlichkeit oder Kriegsverbrechen darstellen (Protokoll 12194, 12195), hat diese Entscheidung natuerlich keine Auswirkung auf die Bedeutung solcher Unterlagen auf die Beschuldigungen bezüglich Verbrechen gegen den Frieden. Wie in dem vorlaufigen Schriftsatz angegeben, ist es klar, dass das Militaergericht den Einfall und die Besetzung Oesterreichs in der Anklageschrift des Militaergerichtes nicht als Angriffskrieg zur Last gelegt wurde. So sagt das Militaergericht (Seite 318, 319): "Seine Besetzung ist deshalb ein Verbrechen, das unter die Gerichtsbarkeit des Tribunales faellt, wie der Ausdruck lautet, der in Artikel 6 (C) der Errichtungsurkunde gebraucht wird." Hinsichtlich der Tatsache, dass Oesterreich unterlag, ohne dass ein Schuss fiel, sagt das Militaergericht (Seite 194): "Der letzte Faktor war die bewaffnete Macht Deutschlands, bereit eingesetzt zu werden, wenn irgendwelcher Widerstand angetroffen worden waere".

#### A - Anklagepunkt II

(13) Die gleichen grundsatzlichen Erwagungen gelten ebenfalls fuer die Schuld jedes einzelnen Angeklagten des Vorstandes fuer die Verbrechen, die in den Anklagepunkten II und III der Anklageschrift zur Last gelegt worden. Es ist wahr, dass I.Gs. Kaufmannischer Ausschuss zu Anfang neuer Wege in Zusammenhang mit I.Gs. Vorgehen bei der Fluenderung und Beraubung der chemischen Industrie der europaischen Laender besprach. Es ist wahr, dass die Angeklagten Schmitz, von Knieriem,



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von Schnitzler, ter Meer, Buete-fisch, Haefliger, Ilgner, Kuchno, Mann und Oster (als auch Gattineau und Kugler) aktiven Anteil an diesen Dingen nahmen und dass die besagten Angeklagten eine noch wesentlichere Rolle bei der Ausraubung gewisser Laender spielten als andere Angeklagte. All dies aber beschneidet nicht die Verantwortung jedes Einzelmitgliedes des Vorstandes, noch mildert es die Tatsache, dass jedes Vorstandsmitglied davon Kenntnis hatte, dass die I.G. die chemische Industrie in ganz Europa auspluenderte. Zum Beispiel die Tatsache, dass Schnitz, von Schnitzler, ter Meer, Ambros, Mann (als auch Kugler) sich besonders bei der Auspluenderung Frankreichs betaeuhten, bedeutet nicht, dass Buete-fisch, Haefliger, Ilgner und von Knieriem (als auch Gattineau), die sich besonders in Oesterreich hervortaten, nicht zur Verantwortung gezogen werden sollten fuer I.G.s. umfassendes Programm der Pluenderung und Ausraubung. Und die Tatsache, dass Krauch, von Schnitzler, von Knieriem, ter Meer, Ambros, Buete-fisch, Ilgner, Mann und Oster sich besonders in der Planung der Ausraubungen in Russland hervortaten, heisst nicht, dass die anderen Vorstandsmitglieder nicht fuer diese Taetigkeit verantwortlich gehalten werden. Nicht nur ist jeder Angehoerige des Vorstandes verantwortlich fuer Handlungen von Pluenderung und Raub, die von der I.G. ueber ganz Europa hin vollbracht wurden, sondern es ist klar, dass jeder Angeklagte aus dem Vorstand ueber die Art und den Zweck dieser Machenschaften Bescheid wusste. Hinsichtlich jeder einzelnen Handlung von Raub und Pluenderung sehen wir gewisse Angeklagte eine fuehrende Rolle spielen. Jeder der Angeklagten spielte eine fuehrende Rolle in einer oder mehr dieser Handlungen von Raub, noch dazu durch Ermuechtigung, Billigung und Bestaetigung solcher Handlungen als Vorstandsmitglieder. Die Tatsache indessen, dass Krauch sich mehr in Russland und Norwegen betaeuhte, dass von Schnitzler eine fuehrende Rolle in Russland, Frankreich und Polen spielte, dass Schnitz sich mehr bei der Pluenderung von Frankreich und Norwegen als bei anderen Laendern betaeuhte, dass ter Meer sich besonders aktiv in Russland, Frankreich und Polen etc. betaeuhte, beschraenkt in keiner Weise die Verantwortung dieser Angeklagten fuer das umfassende Programm, welches die I.G. angepackt hatte, um andere Laender ihrer chemischen Industrie zu berauben. Diese Angeklagten waren an diesen Machenschaften nicht nur unmittelbar beteiligt, sondern waren auch als Vorstandsmitglieder dafuer verantwortlich. Aber es ist ebenso klar, dass sie wussten, was der Zweck und Art dieser Taetigkeit war.

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(44) Wie die Prüfung der Protokolle der Sitzungen des Kaufmannischen Ausschusses während der Zeitspanne, beginnend mit März 1938, ergibt, wurden die Betätigungsbereiche von Farben in den Ländern, die eines nach dem anderen von der Nazi Armee in den Staub getreten wurden, in praktisch allen Sitzungen besprochen. Diese Besprechungen behandelten die Aktionen von Farben in Oesterreich, in der Tschechoslowakei, Polen, Norwegen, Frankreich und Russland. Ausser den ständigen Mitgliedern des Kaufmannischen Ausschusses waren die Angeklagten Schmitz und von Knieriem, sowie einzelne technische Direktoren oft bei diesen Sitzungen des KA anwesend, in denen diese Probleme besprochen wurden. Die Vorschläge des KA, sowie die Vorschläge des TEA wurden dem Vorstand zur Bewilligung unterbreitet. Es ist deshalb selbstverständlich, dass jedes einzelne der Vorstandsmitglieder die Verantwortung dafür trägt und davon wusste, dass durch die Mitwirkung von Farben in jedem dieser Länder Raub und Plünderung ausgeübt wurden. Ebenso wie die Angeklagten die Absicht der Nazi Regierung unterstützt hatten, um die Völker anderer Länder ihres Eigentums zu berauben, so haben die Angeklagten dieselbe Gewaltanwendung dazu benutzt, um Farben an der Beute zu beteiligen.

(45) Die Verbrechen, die im Anklagepunkt II enthalten sind, ebenso wie die Verbrechen enthalten im Anklagepunkt I, werden durch einen objektiven und einen subjektiven Tatbestand bedingt. Wie dies in Verbindung mit der Beweisführung für das Verbrechen gegen den Frieden der Fall war, so werden die Beweismittel, die vorgelegt wurden, um die Beschuldigung des Anklagepunktes II zu unterstützen, feststellen, dass jedes der Vorstandsmitglieder von Farben nicht nur an Farben's Programm der Plünderung und Bereubung teilnahm, sondern auch wusste, dass dieses Programm die Ausnutzung der wirtschaftlichen Hilfsquellen der besetzten Länder zugunsten der deutschen Kriegsmaschine zum Ziel hatte, sowie auch die Beherrschung der Wirtschaft der besetzten Länder, ganz ohne Rücksicht auf die örtlichen Bedürfnisse der deutschen Besatzungsarmee und dass dieses Programm in den meisten Fällen eine regelrechte Bereubung darstellte.

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(46) Die folgenden Auszüge aus den Verhören von drei Angeklagten, die in eigener Sache als Zeugen aussagten, sind besonders aufschlussreich, da sie die Verantwortung des Vorstandes fuer die Fluenderung und den Raub durch Farben ins rechte Licht ruecken.

(a) Haefliger bei seiner Vernehmung

Protokoll, englische Seite 9185, deutsche Seite 9287 ....

F: Was taten Sie nun daraufhin, Herr Haefliger, als dieses Verlangen von Koppenberg gestellt wurde?

A: Ich nahm dazu in Oslo keine Stellung, sondern sagte, dass ich darueber zuhause berichten muesse. Und bald darauf, in der Vorstandssitzung vom 5. Februar 1941, berichteten ich und der technische Direktor Dr. Moschol, der den Verhandlungen ebenfalls beigewohnt hatte, ueber den auf uns ausgeuebten Druck seitens Dr. Koppenberg. Ich verweise auf Prosecution-Exh. 1183, Dokumentenbuch 65, englische Seite 43, deutsche Seite 87. Daraufhin fand eine Sitzung im Reichsluftfahrtministerium statt, da ich die Weisung im Vorstand bekommen hatte, notions volens auf dieser Linie weiter zu verhandeln.

.....

(b) Krehne bei seiner Vernehmung

Protokoll, englische Seite 10177, deutsche Seite 10312 .....

F: Meine naechste Frage ist jetzt:  
Haben Sie bei sonstigen Erwerbungen der I.G. im Ausland in den Jahren 1939 und folgenden mitgewirkt?

A: Nein, diese Verhandlungen wurden von den jeweils zustaeendigen Herren gefuehrt.

F: Darf ich fragen: Erfuhren Sie davon?

A: Sicher habe ich davon erfahren, denn die fuer die betreffenden Gebiete zustaeendigen und verantwortlichen Herren berichteten ueber ihre persoenlichen Entscheidungen und die Entscheidungen ihrer Kommissionen im Vorstand in Form von Mitteilungen.

F: Wurde im Vorstand ueber solche Berichte oder Vorschlaege abgestimmt?

A: Ich kann mich an keine Abstimmung erinnern. Ich habe ueber die weitgehende Dezentralisierung im I.G. Vorstand schon gesprochen. Wir hatten voelliges Vertrauen zu den einzelnen Sachbearbeitern. Wir wussten, dass sie sich mit sachverstaendigen Mitarbeitern, mit Kommissionen und vor allem mit ihren juristischen Beratern, die jeder von uns hatte, beraten hatten. So war es nicht ueblich, im Vorstand die Entscheidungen der verantwortlichen Sachbearbeiter zu ueberpruefen.



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(c) Kugler bei seiner Vernehmung

Protokoll, englische Seite 12672, deutsche Seite 12955 ....

F: Hatten Sie einen entscheidenden Einfluss oder einen bestimmenden Einfluss darauf, ob der Francolor-Vertrag dann von der I.G. geschlossen wurde und welchen grundsätzlichen Inhalt dieser Vertrag hat?

A: Das kann man wohl nicht sagen. Die Entscheidung lag nicht bei mir, sondern letzten Endes bei den Herren des Vorstandes.

B - Anklagepunkt III

(47) Die Grundsätze, die die Schuld der Vorstandsmitglieder an den Verbrechen gemäss Anklagepunkt I und II bedingen, können allgemein fuer die Verbrechen gemäss Anklagepunkt III angewandt werden. Es ist eine Tatsache, dass der Technische Ausschuss oeffters vollstaendige Projekte, welche auf Sklavenarbeit aufgebaut waren, an den Vorstand zur Bewilligung unterbreitet hat und dass einzelne der Angeklagten an der Spitze von gewissen Farben-Fabriken und Gemeinschaften standen, in denen Sklavenarbeit geleistet wurde. So z.B. waren Wurster und Ambros in Ludwigshafen, Lautenschlaeger und Jaehne in Hoechst, Hoerlein und Kuehne in Elberfeld und Leverkusen, Buergin in Bitterfeld, Gajewski in Wolfen-Filmfabrik, Schneider und Bueteffisch in Leuna, und schliesslich Ambros, Bueteffisch und Duerrfeld in Auschwitz. Es ist ebenfalls eine Tatsache, dass Schneider, Ter Meer und Gajewski, als Leiter der Sparten besondere Verantwortung auf diesem Gebiete hatten, und dass Schneider als Hauptbetriebsfuhrer, und einzelne der anderen Angeklagten als Betriebsfuhrer, eine besondere Verantwortung fuer den Einsatz von Sklavenarbeitern und deren Wohlfahrt trugen. Diese Tatsache verringert jedoch nicht das Ausmass der Beteiligung und die Kenntnis dieser Vorgaenge seitens jedes einzelnen Vorstandsmitgliedes.

(48) Es ist erwiesen, dass der Vorstand von Farben den Einsatz von Fremdarbeitern, Kriegsgefangenen und Konzentrationslager-Haeftlingen als Sklaven in den Fabriken von Farben genehmigte, bewilligte und bestaetigte. Die Tatsache, dass jedes einzelne Mitglied des Vorstandes Kenntnis von den allgemeinen Grundsätzen hatte, welche Farben fuer den Einsatz dieser Sklavenarbeit zugrunde legte, wird gar nicht zur Debatte gestellt. Ausser der Tatsache, dass jedes einzelne der Vorstandsmitglieder

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bewusst den Einsatz von Sklavenarbeit genehmigte, bewilligte und bestaetigte, erweisen auch die Beweismittel, dass diese Angeklagten des Vorstandes die ersten Schritte getan haben, um solche Sklavenarbeiter einzusetzen. Diese Sklavenarbeiter, welche durch die Bemuehungen der angeklagten eingesetzt wurden, wurden schlecht gepflegt, schlecht gekleidet, schlecht untergebracht, misshandelt, geschlagen, gefoltert und gemordet. Die Bedingungen, unter welchen die Sklavenarbeiter in Auschwitz arbeiteten, waren so elend, dass, falls die Beweismittel dies nicht in ueberwaeltigender Weise erweisen wuerden, es kaum glaublich waere. Durch den Beweisvortrag wird festgestellt, dass jedes Vorstandsmitglied von diesen Zustaaenden Kenntnis hatte.

(49) Die Zustaaende bei der I.G. Auschwitz werden in einigen Einzelheiten in Teil IV dieses Schriftsatzes beschrieben. Die Verantwortung fuer die Misshandlung, Folterung und Ermordung dieser Haeftlinge muss von jedem einzelnen der Vorstandsmitglieder getragen werden. Der Beweisvortrag erweist, dass der Vorstand den Einsatz dieser Haeftlinge genehmigte, bewilligte und bestaetigte und die ersten Schritte dazu tat, um sie zu bekommen. Die Angeklagten des Vorstandes uebten weiterhin die Initiative aus, um solche Haeftlinge weiterhin zu bekommen, selbst nachdem es diesen Angeklagten klar sein musste, dass diese Haeftlinge als Maschinen benutzt wurden und, nachdem sie verbraucht waren, in die Gaskammern geworfen wurden. In Teil II des Vorlaeufigen Schriftsatzes und in Teil IV dieses Schriftsatzes werden die Beweismittel, die zeigen, dass diese Angeklagten von den Zustaaenden in Auschwitz Kenntnis hatten, kurz eroertert werden. Die Beweise, welche durch die Verteidigung in ihrem Beweisvortrag vorgelegt wurden, haben nur dazu gedient, die Schluesse, die man aus dem Vorlaeufigen Schriftsatz gezogen hat, zu bekraeftigen, anstatt sie abzuschwaechen. Die Angeklagten des Vorstandes muessen nicht nur mit der Verantwortung fuer die Behandlung der Haeftlinge in I.G. Auschwitz belastet werden, sondern auch mit der Verantwortung, das Giftgas geliefert zu haben, mit denen diese Haeftlinge in Birkenau ermordet wurden. Der Beweisvortrag, welcher auf diese Angelegenheit Bezug nimmt, wurde in dem Vorlaeufigen Schriftsatz eroertert und wird weiter in Teil IV dieses Schriftsatzes besprochen werden.

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F - Anklagepunkt V  
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(50) Teil V des Vorläufigen Schriftsatzes enthaelt die Theorie der Anklagebehörde in Bezug auf die Beschuldigung gemäss dem Anklagepunkt 5 der Anklageschrift. Wie darin ausgeführt wird, stuetzt sich die Anklageschrift auf den Gedanken, dass die Beschuldigungen gemäss dem Anklagepunkt I und die Beschuldigung wegen des Anklagepunktes des Komplottes (conspiracy), verschiedene und voneinander abweichende Verbrechen betreffen.

(51) Der Beweisvortrag, der angeführt wurde, stellt ueber jeden begründeten Zweifel hinaus fest, dass die Angeklagten des Vorstandes an einem Komplott teilgenommen haben, welches die Nazi Politik der Expansion foerderte, welches die Anwendung von Gewalt, um Voelkern anderer Laender ihr Land, ihr Eigentum und ihre persoenliche Freiheit zu rauben, zum Ziele hatte. Und in den Worten des Obersten Gerichtshofes der Vereinigten Staaten in Sachen Direct Sales Co. versus U.S.A., 391 U.S. 703 (1943), haben die Angeklagten des Vorstandes die Nazi Verschwörung, mit den "Warenvorraeten" fuer deren "ungesetzliches Unternehmen" beliefert und dadurch "Sterne und Faust" vereinigt um diese Leistung zu ermoeeglichen. Bezugnehmend auf diese Angeklagten des Vorstandes, zitieren wir: "Es handelt sich hier um mehr als einen Verdacht, mehr als Vertrautsein, Einwilligung, Unachtsamkeit, Gleichgueltigkeit und Mangel an Fuersorge. Hier handelt es sich um eine unterrichtete und beteiligte Mitarbeit, Antreibung und Anstiftung. Und es gibt hier auch eine "Einlage in dem Wagnis", welches, selbst wenn es nicht ausschlaggebend ist, doch fuer das Problem des Komplottes nicht uebersehen werden darf". (Direct Sales Co. versus U.S., siehe oben).

(52) Wir zitieren in den Worten des Internationalen Militaer-Gerichtshofes (Band I, englische Seite 226, deutsche S. 252): "Hitler konnte keinen Angriffskrieg allein fuehren. Er benoetigte die Mitarbeit von Staatsmaennern, militaerischen Fuehrern, Diplomaten und Geschaeftsleuten. Wenn diese seine Ziele kannten und ihm ihre Mitarbeit gewaehrten, so machten sie sich zu Teilnehmern an den von ihm ins Leben gerufenen Plan. Wenn sie wussten was sie taten, so koennen sie nicht als unschuldig erachtet werden, weil Hitler sie benutzte".



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BESTÄTIGUNG DER UEBERSETZUNG

7. Juli 1948

Wir, Victoria ORTON, ETO # 20129,  
Julius J. STEUER, AGO - A - 442654,  
Eugene R. KUN, D - 429798,  
bestaetigen hiermit, dass wir offizielle Uebersetzer fuer die  
deutsche und englische Sprache sind und dass obiges Schriftstueck  
eine wahrheitsgetreue und genaue Uebersetzung des "Final Briefs  
of the Prosecution Part I" ist.

.....  
Victoria ORTON  
ETO # 20129

.....  
Julius J. STEUER  
AGO - A - 442654

.....  
Eugene R. KUN  
D - 429798

MILITÄRGERICHTE

DIE VEREINIGTEN STAATEN VON AMERIKA

- gegen -

KRAUCH und andere (Fall VI)

ABSCHLIESSENDE SCHRIFTSATZ DER ANKLAGEBEHÖRDE

TEIL II

Gewisse Betätigungen bei der

Vorbereitung fuer einen Angriff

Nuernberg, Deutschland

1. Juni 1948



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A. Einfuehrung.

(1) Wir werden in diesem Teile des Schriftsatzes die Rolle besprechen, welche die Angeklagten mittels der I.G. in der wirtschaftlichen Mobilmachung Deutschlands und in der Ausruestung der Militaermaschine der Nazis zur Fuehrung eines Angriffskrieges spielten. Wir verweisen auf die Eroerterung dieses Themas und anderer verwandter Themen in unserem Vorlaeufigen Schriftsatz, Teil I, S. 19-47 und werden das dort Ausgefuehrte hier lediglich ergaenzen.

(2) Das Rueckgrat bei der Vorbereitung eines Krieges ist die industrielle Staerke, die bei der Umstellung ihrer normalen Friedens-erzeugung und Einrichtungen auf Kriegswirtschaft unter Beweis gestellt wird. Dieser Vorgang der Umstellung geschieht nicht ueber Nacht. Wir werden zeigen, wie diese Angeklagten mittels der I.G. vorgingen, um die Militaermaschine der Nazis auf den Gebieten auszustatten, wo ihre Erzeugung fuer die Fuehrung eines Angriffskrieges unerlaesslich war.

(3) Wir beabsichtigen zu zeigen, welches die Haupterzeugungsgebiete waren, die das Lebensblut der Militaermaschine der Nazis bildeten, und dann werden wir zeigen, dass dieses Lebensblut seitens der Angeklagten durch Vermittlung der I.G. geliefert wurde.

(4) Der Bericht des U.S. Strategic Bombing Survey (U.S. Dienstes fuer Uebersichten ueber strategische Bombenangriffe) (PE 715) fuehrt als wichtigste Industrieziele an: (1) die synthetische Oelindustrie, (2) die synthetische Gummiindustrie und (3) die Sprengstoffindustrie.<sup>1)</sup>

1) Der Bericht besagt: "Fuer synthetisches Petroleum, Gummi, Stickstoff und andere wichtige Chemikalien ist man in erster Linie auf Kohle, Luft und Kalkstein angewiesen, und Deutschland hat diese in ausreichenden Mengen. Diese einfachen Mittel bilden die Basis einer vielfaeltigen chemischen Industrie. .... Deutschlands chemische Industrie im ganzen Jahre 1939 fuer Kriegsbeduerfnisse sind ziemlich unabhængig. Die Geschichte der Industrie ist vorwiegend die der I.G. Farben Gesellschaft, welche vielleicht 85 % der Gesamtindustrie lenkte. Die I.G. Farbenbetriebe in Leuna, Ludwigshafen und Leverkusen waren mit die groessten der Welt.....".  
(PE 715, S. 13).



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(5) Bei der Erörterung der Frage, warum die deutsche synthetische Oelindustrie als Ziel ersten Ranges gewählt wurde, besagt der Bericht:

"... hatten erheblich grössere Nachwirkungen zur Folge als einen blossen Verlust an Oelproduktion. Bombenangriffe auf die Anlagen fuer synthetisches Oel bedeuten einen vernichtenden Schlag fuer die Munitions- und Sprengstoffindustrie und fuegten der Industrie fuer synthetischen Gummi erheblichen Schaden zu." (PE 715, S. 50)

(6) Der Bericht weist besonders auf die Bedeutung der Leunawerke der I.G. hin und fuehrt aus:

"Leuna war nicht nur die grösste Verflüssigungsanlage in Deutschland, sondern auch wegen seiner Stickstoffproduktion und Erzeugung anderer Chemikalien von grösster Bedeutung. Es war der bestgeschuetzte Betrieb in Mitteleuropa. Die Verteidigungsmassnahmen waren so gut, dass es ausserst schwierig war, einen Treffer zu erzielen. \*\*\* Noch bevor der Krieg beendet war, wurden 22 Luftangriffe auf Leuna durchgefuehrt, davon zwei durch die RAF (Englische Luftwaffe) und zwanzig durch die Eighth Air Force (Achte amerikanische Luftarmee). Mit Ruucksicht auf die dringende Notwendigkeit, diese Anlage betriebsunfaehig zu erhalten, wurden einige dieser Angriffe bei fuer Bombenflugzeuge unguenstiger Witterung durchgefuehrt. \*\*\* Insgesamt haben 6,552 Bombenflugzeuge mit einer Gesamtbombenladung von 18,328 Tonnen dieses Ziel angegriffen. Die Schlacht um Leuna war eine der grössten Schlachten dieses Krieges und sie wurde trotz 2) schwerer Verluste gewonnen. (PE 715, S. 42)

(7) Bei der Erörterung der Wichtigkeit des kuenstlichen Gummis heisst es in dem Bericht:

"Vor dem Krieg war Deutschland der drittgrösste Gummiverbraucher der Welt und kam nach den Vereinigten Staaten und England. Deutschlands Verbrauch pro Kopf war ungefaehr 1/4 dessen der Vereinigten Staaten. 1937 und 1938 war Deutschlands Durchschnittsverbrauch 92,000 Jahrestonnen an natuerlichem Gummi, und der der Vereinigten Staaten 600,000..... Waehrend der Zeit vor dem Krieg stieg die Herstellung von synthetischem Gummi von 1,100 Tonnen im Jahre 1936 auf 21,000 Tonnen im Jahre 1939. Um die Entwicklung der synthetischen Gummiindustrie anzuregen, gewaehrte man einen wesentlichen Zollschatz fuer diese. Ausserdem erhielt die I.G. Farben-Entwicklungsfabrik in Leverkusen fuer synthetischen Gummi unmittelbare Staatsunterstuetzung.....". (PE 715, S. 45).

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"Deshalb begann Deutschland den Krieg in wesentlichen praktisch ohne Vorräte weder an natürlichen noch künstlichen Gummi. Die Einfuhren während des Krieges waren wegen der Blockade unbedeutend, und von Anfang des Krieges an war es ständig von den einzigen drei grossen und einer kleinen synthetischen Anlage zur Deckung des Bedarfes abhängig." (PE 715)

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2) Dem künstlichen Benzin ist das Tetraäthyl verwandt, von dem der Bericht sagt:

"Eine der wichtigsten Möglichkeiten haben die Alliierten in ihren gegen Petroleum gerichteten Luftangriffen nicht ausbeutet. Äthylfluidum ist ein unentbehrlicher Bestandteil des hochgradigen Flugzeugbenzins, und Zusatz von sehr geringen Mengen Äthylfluidum zum Benzin ist so vorteilhaft, dass kein modernes Flugzeug anders benutzt wird. Äthylfluidum wird aus Tetraäthylblei und Äthylenäthylbromid gewonnen. In Deutschland gab es nur 2 Tetraäthylwerke, .. Capel Froese". (PE 715, S. 45). (PE 391 gibt an, dass beide I.G. Werke waren).

(8) Der Bericht faehrt weiterhin fort:

"Die Produktion von synthetischem Gummi litt trotzdem, weil sie mit den synthetischen Petroleumwerken eine Einheit bildete.\*\*\* Die Erzeugung in Schkopau hatte gelitten und war zum Schluss ganz ausgeschaltet, da Schkopau fuer seine Wasserstoffversorgung auf die 5 Meilen entfernten Leuna-Werke angewiesen war. Die 22 Angriffe auf das synthetische Petroleum in Leuna . . . liess die Werke nicht ueber einen Durchschnitt von 9% der Leistungsfahigkeit hinauskommen, und da Leuna-Schkopau keinen Wasserstoff liefern konnte, war es Schkopau unmoglich, synthetischen Gummi herzustellen.\*\*\* Der grosse Produktionsausfall in den wichtigen Gebieten der chemischen Industrie, wie auch der Ausfall in der synthetischen Gummiproduktion waren beides Nebenerscheinungen der Bombardierung von synthetischem Petroleum." (FE 715, p.46, p.49).

(9) Bei der Erorterung der Wichtigkeit der deutschen Pulver- und Sprengstoffindustrie als Angriffsziel fuehrt der Bericht den technischen Zusammenhang der Verfluessigungsprozesse an, die von der I.G. angewendet wurden; Verfahren, welche die Grundlage fuer synthetisches Oel, Gummi und Sprengstoff bildeten. So sagt der Bericht (FE 616):

"Um sich ein klares Bild von den Auswirkungen der strategischen Bombenangriffe auf die deutsche Pulver- und Sprengstoffindustrie machen zu koennen, muss man ueber die Verflechtung dieser Industrie mit, und ueber ihre Abhaengigkeit von der synthetischen Ammoniak, Methanol- und Oelindustrie Bescheid wissen.\*\*\* Diese drei Werkstoffe waren alle Hochdruckverfahren unter Anwendung von grossen Mengen chemisch ausserst reinen Wasserstoffs in derselben Art von Anlage.\*\*\* In einzelnen Werken war die teilweise Anlehnung der zu erstellenden synthetischen Schmieroelkapazitaeten an die zur Erzeugung von Ammoniak zu einem fruheren Zeitpunkt eingerichteten Wasserstoffkapazitaeten vorgesehen, sofern sie nicht durch die Ammoniakherzeugung voll beansprucht war." (FE-616) (Siehe auch FE 24)

(10) Der Bericht (FE 715) faehrt fort:

"Die grossen Anlagen, welche Stickstoff und 90% der Methanolproduktion herstellten, befanden sich alle in den synthetischen Petroleumwerken, Leuna und Ludwigshafen-Opau, die beiden wichtigsten Werke, erzeugten 60% des Stickstoffs und 40% des Methanols, ausserdem stellten diese beiden Werke auch 76% der deutschen Chloroethylerzeugung fuer Tetraethylblei." (S.13a) \*\*\* Gluecklicherweise war die Herstellung der beiden wichtigsten Chemikalien, Stickstoff und Methanol, stark auf die synthetischen Petroleumwerke konzentriert. Der hierdurch entstandene Mangel an Pulver und Sprengstoff spielte eine bedeutende Rolle in der Verringerung der Widerstandsmoeglichkeiten der deutschen Wehrmacht beim Vormarsch der Alliierten und in der russischen Offensive. Beide Feldzuege waren mit einem enormen Verbrauch an Sprengstoff verbunden, und dies zu einer Zeit, als die Erzeugung zu hoffnungslosen Tiefen sank und die Vorraepte rasch aufgebraucht wurden.\*\*\* Stickstoff ist das wichtigste chemische Produkt fuer Kriegszwecke. Bei fast allen fuer Kriegszwecke verwandten Pulvern und Sprengstoffen wird Stickstoff in Form von Salpetersaure benoetigt.\*\*\* Es standen immer genugend Werke zur Herstellung von Salpetersaure und zur Nitrierung verschiedener Chemikalien fuer Sprengstoff, sowie genugend Einrichtungen zum eigentlichen Fuellen der Geschosse zur Verfuegung.



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Der Schlag, welcher die deutsche Munitionsproduktion kaltstellte, war die Zerstörung der wichtigsten Stickstoff-Fixierungsanlagen. Deutschlands Stickstoffindustrie erfüllte alle Voraussetzungen eines Hauptobjektes der Bombardierung: die Stickstoffherzeugung wurde unmittelbar fuer die deutsche Kriegsfuehrung verwendet und war von groesster Wichtigkeit fuer dieselbe.\*\*\* Die Bombardierung der Stickstoffindustrie war wirkungsvoll und ausschlaggebend. Sie war eine Begleiterscheinung der Bombardierung des synthetischen Petroleums. (S.14a)3. (FE 715 p.50, p.51)

(11) Dies war die militaerische Maschine der Nazis; ihre Lebensnerven: kuenstlicher Treibstoff, Gummi und Sprengstoffe.

(12) Welches war die Planung und Vorbereitung, die diese Maschine baute? Kannten diese Angeklagten den Zweck ihrer Teilnahme an dieser Vorbereitung?

(13) Wir beginnen mit den ersten, ins Einzelne gehenden Plaenen einer wirtschaftlichen Mobilmachung aus dem Jahre 1934; dem ersten Entwurf industrieller Vorbereitung auf den Krieg, der in diesem Protokoll gezeigt wird. Es ist ein offizieller Regierungsbericht ueber "den Fortschritt der Arbeit fuer die wirtschaftliche Mobilmachung am 30.Sept.1934". (FE 716 ). Er beginnt mit der Erklaerung:

"Dem Reichswirtschaftsministerium ist mit der Gruendung des Reichsverteidigungsrats und seines staendigen Ausschusses die Aufgabe gestellt, die Kriegsfuehrung wirtschaftlich vorzubereiten. \*\*\* Die ungeheure Bedeutung dieser Aufgabe sollte eigentlich keiner naecheren Begrueundung beduerfen. Noch ist die Erinnerung lebendig daran, wie fuerchterlich sich im Weltkrieg das Fehlen jeglicher wirtschaftlicher Kriegsvorbereitung bemerkbar machte. \*\*\* Eine einheitliche wirtschaftspolitische Gesamtauffassung fehlte zunaechst. Sie setzte sich allmaehlich durch. \*\*\* Aber auch nach Erreichen dieses Abschnittes der Kriegswirtschaft - etwa im Herbst 1916 - machte sich noch der Mangel einer vorbereitenden Durchdenkung der Kriegswirtschaft in schaedlicher Weise bemerkbar. Auch fuer die organisatorisch, juristisch und wirtschaftspolitisch noch so gut vorbereitete Kriegswirtschaft bestanden natuerliche Grenzen. \*\*\* Diese Beschaenkenungen ergaben sich aus der Menge des Rohmaterials, das entweder aus unserer eigenen Erzeugung oder aus Einfuehren und aus der Fertigungskapazitaet der Fabriken verfuegbar ist." (von uns unterstrichen, FE 716, oben auf Seite 2).

(14) Nach Aufzaehlung der Fehler, die Deutschland im ersten Weltkrieg auf dem Gebiet der wirtschaftlichen Mobilmachung gemacht hat, faehrt der Bericht fort:

"Die Notwendigkeit einer wirtschaftlichen Kriegsvorbereitung ist durch einige Faktoren in der Zeit seit dem Weltkrieg fuer Deutschland noch vorstaerkt worden." (FE 716, p.3)

3 Sh.Aussage des Zeugen Elias (Prot.1348) ueber technische Gesichtspunkte, welche zeigt, wie das Hydrierverfahren die gemeinschaftliche Urgrundlage fuer die Erzeugung von Treibstoff, Gummi und Zwischenprodukten fuer Sprengstoffe und chemische Kampfstoffe bildete.

und macht dazu folgende Anmerkungen:

"... so ist die wirtschaftliche Rüstung hinter der begrenzten militärischen wenigstens nicht zuruckgeblieben." (S.3)\*\*\* Die Aufgabe des Reichswirtschaftsministeriums betrifft die gewerbliche Wirtschaft. Ausgenommen ist nur die Vorsorge fuer die Fertigung des eigentlichen Wehrmachtgeräts, welche den Wehrmachtsstellen obliegt. Naturgemäss nimmt diese Fertigung in Ernstfalle den ueberwiegenden Teil der gewerblichen Fertigwarenerzeugung in Anspruch, da aber der Reichswirtschaftsminister die saemtlichen Rohstoffe und Halbfabrikate einschliesslich der fuer die Herstellung des Wehrmachtgeräts erforderlichen Rohstoffe usw. bereitzustellen hat ... so bleibt diese Aufgabe gross und bedeutungsvoll genug. Diese Aufteilung der Aufgaben erfordert im Hinblick auf den engen Zusammenhang zwischen ihnen engste personliche und sachliche Zusammenarbeit zwischen den beiderseitigen verantwortlichen Stellen (Reichswirtschaftsministerium, Heereswaffenamt, Heeresverwaltungssamt, Reichsluftfahrtministerium). Die Herstellung dieser Zusammenarbeit war ein wesentliches Ergebnis der Arbeiten des ersten Jahres. Ihre Bedeutung fuer eine reibungslose Durchfuehrung der vorbereitenden Massnahmen in Ernstfall kann nicht leicht ueberschaetzt werden. Die sachliche und personliche Zusammenarbeit zwischen Reichswirtschaftsministerium und Heereswaffenamt war besonders eng, zumal da sich das Reichswirtschaftsministerium bei Beginn seiner Arbeiten auf ausgezeichnete Vorarbeiten des Heereswaffenamts naemlich auf dem Rohstoffgebiet als die einzig verfügbaren Vorgaenge stuetzen konnte." (FE 716, p.6, p.7)

(15) Wir wenden jetzt auf einige bestimmte Dinge Bezug nehmen, die in diesem fruehzeitigen wirtschaftlichen Mobilisierungsplan ausgefuehrt sind und werden zeigen, wie in jedem folgenden Mobilisierungsplan diese Tätigkeitsgebiete ausgebaut wurden. Der Plan von Sept. 1934, der sich mit der Devisenlage befasste, schlug eine Bevorratung vor. So hiess es im Bericht:

"Die zunehmende Verschlechterung der Devisenlage machte die Durchfuehrung aller derjenigen geplanten Massnahmen unmoeglich, welche wie z.B. die zusätzliche Einlagerung von Nickel, Stahlhaertungsmetallen, Kautschuk und anderen auslaendischen Rohstoffen - unmittelbaren Devisenaufwand erfordern. \*\*\* In einer solchen Lage koennen zusätzlich auslaendische Rohstoffe nur in Ausnahmefaelleu bevorratet werden. (FE 716, p.14).

4. Den Besprechungen, die waehrend dieser ersten Zeit zwischen Herren von der I.G. und dem Heereswaffenamt, dem Luftfahrtministerium u. dem Wirtschaftsministerium stattfanden, kommt im Hinblick auf das Obige besondere Bedeutung zu. Wie der Bericht vermerkt: "Es wird jahrelanger Vorbereitungen fuer eine solche positive wirtschaftliche Mobilisierung beduerfen." (FE 716, p.5) Die Jahre, waehrend deren sich die Angeklagten mit dieser Aufgabe befassten, erstreckten sich ueber die Zeit von 1933 bis 1939. Man beachte in dem Bericht auch den Hinweis auf die Arbeitsmethode, naemlich: "Schliesslich bedeutet der Zwang zur Tarnung der gesamten Arbeiten eine wesentliche Erschwerung der Arbeiten.\*\*\* Klare schriftliche Anweisungen muessen durch zeitraubende raendliche Besprechungen ersetzt werden und bei der Auswahl von Vertrauenspersonen sowie bei Hilfsleistungen der Wirtschaft ist vielfach besonders Vorsicht und Zurueckhaltung geboten." (FE 716, p.11, p.15)

5. Vergleiche I.G.'s Bestaetigung auf den Gebieten von Nickel (FE 722, FE 683; siehe von Knierims Schriftsatz); Gummi (FE 95, 105, 545; siehe ter Heers Schriftsatz) Wolfram etc. (FE 724).

(16) Bei der Berichterstattung ueber Sonderarbeitsgebiete sagt der Bericht:

"Fuer die kriegs- und lebenswichtigen Produktionszweige haben die betriebs- und produktionsstatistischen Untersuchungen des Statistischen Reichsamts die Standortfrage geklaert."

"Auf Grund der mit diesen Methoden gewonnenen Erkenntnis der bedrohlichen Gefahrenpunkte... wurde nunmehr eine Reihe von Massnahmen zur Beseitigung der dringlichsten Sorgen eingeleitet: (1). Fuer die Sprengstoff- und Munitionsherstellung ist die Moeglichkeit einer ausreichenden Bereitstellung von hochkonzentrierter Salpetersaure Voraussetzung.... Nach monatelangen Projektierungsarbeiten konnte... mit dem Bau einer solchen Anlage im Juni dieses Jahres in Doberitz begonnen werden."  
(PE 716, S. 24/25) <sup>6</sup>

Auf ein anderes Gebiet uebergehend fuehrt der Bericht aus:

"Durch Einwirkung auf die I.G. Farbenindustrie ist erreicht, dass die bisher ausschliesslich in gefährdetem Gebiet (bei Aachen) liegende Erzeugung von Ferrowolfram ab 1. Januar 1935 zu einem Teil nach Mitteldeutschland verlegt wird. Dieser Konzern erstellt gleichzeitig eine erhebliche Reserveanlage... Der gleiche Konzern vergrössert seine Betriebsanlage fuer die Erzeugung von Ferromolybden..."<sup>7</sup>  
(PE 716 S. 26)

(17) Hinsichtlich Gummi nimmt der Bericht Bezug auf den projektierten Bau von neuen Anlagen und besagt, "die Standorte fuer diese Anlagen werden nach militaerischen Gesichtspunkten gewaehlt." (PE 716, oben auf Seite 10).

(18) Bei der Behandlung der wirtschaftlichen Mobilmachung fuer Sprengstoffe verweist der Bericht auf "die Einlagerung von 2.500 Tonnen reinen Toluols", um "die Erzeugung von "Trinitrotoluol" sicherzustellen fuer neue Verfahren der Herstellung von Glyzerin,<sup>8</sup> und auf Rohmaterial fuer Schwefelsaure, naemlich (Seite 10):

"(9) Fuer ein unentbehrliches chemisches Zwischenprodukt, die Schwefelsaure, ist der Schwefelkies Ausgangs- und Rohstoff. ... Die I.G. Farbenindustrie A.G. ist veranlasst worden, eine zusaetzliche Bevorratung mit Schwefelkies... durchzufuehren. Ausserdem wird die Umstellung eines grossen Werkes dieses Konzerns auf die Gewinnung von Schwefelsaure aus Gips wesentliche Erleichterungen auf diesem Gebiet bringen." (PE 716 S. 28)

<sup>6</sup> Dies ist eine I.G. Anlage, an welche der WIFO Ausbau angefoert wurde.  
(PE 47; PE 391 auf Seite 51)

<sup>7</sup> Die Entwicklungen waehrend dieser Zeit in den Werken zu Bitterfeld, (PE 1815) Aken und Stasfurth fallen mit dem obigen zusammen. Siehe Besprechung von Leichtmetall, post Sub. D).

<sup>8</sup> Auf diesen Gebieten hat sich Ambros spaeter insbesondere in technischer Hinsicht stark betaeuigt.

<sup>9</sup> Dies ist ein Gebiet, auf dem Wuerter insbesondere in technischer Hinsicht sehr taetig war.



(19) Was Benzin betrifft, so sagt der Bericht:

"Die ausserordentliche Bedeutung der Treibstoffe ergibt sich aus der zunehmenden Motorisierung der Wehrmacht, der zunehmenden und fuer die Zukunft in ihrer Steigerungsmöglichkeit kaum absehbaren Bedeutung der Luftwaffe... Unter den gesamten zu beruecksichtigenden Rohstoffen zeichnet sich der Treibstoff weiterhin - ... dadurch aus, dass er fuer die Kriegsfuehrung sofort greifbar vorhanden sein muss, ... Fuer die Spezialfliegerbenzine ist die Versorgung vorlaeufig nur durch Lagerungen zu erreichen, die aber bisher erst in verschwindendem Ausmass gelungen ist. ...Praktisch verwirklicht ist bisher die Steigerung der Produktion von Leuna von bisher 100.000 auf zukuenftig insgesamt 300.000 t."  
(PE 716, S. 30, S. 31).

(20) Schliesslich nimmt dieser fruehzeitige Entwurf einer wirtschaftlichen Mobilmachung Bezug auf zukuenftige Vorbereitung und Planung, in welche der Angeklagte Krauch unmittelbar einbezogen werden sollte. So sagt der Bericht:

"Die Arbeiten des Rohstoffausschusses werden seit der Einsetzung eines Rohstoffkommissars im Reichswirtschaftsministerium in engem Einvernehmen mit diesem gefuehrt. Die von dem Rohstoffkommissar angestellten Untersuchungen und eingeleiteten Massnahmen zur Erweiterung unserer Rohstoffbasis durch eigene Produktion und zur Foerderung der Erzeugung von Ersatz- und Neustoffen kommen den kriegswirtschaftlichen Vorbereitungen unmittelbar zugute. Seine unter dem Druck der gegenwaertigen Notlage angestellten Untersuchungen werden noch auf lange Zeit und in jedem Falle fuer kriegswirtschaftliche Zwecke eine Fundgrube wertvollsten Materials bilden. (PE 716, S. 28, S. 29).

10 Das Obige wirft ein Licht auf den Zweck der Erweiterung der synthetischen Treibstoffherstellung in Leuna. Man sollte beachten, dass der Bericht des U.S. Strategic Bombing Survey (U.S. Dienstes fuer Uebersichten ueber strategische Bombenangriffe) tatsaechlich festgestellt hat, dass die synthetischen Treibstoffanlagen das wichtigste Ziel seien und kurz nach diesem Mobilmachungsbericht fuer 1934 kam Goerings Bemerkung im Jahre 1936: "In Anbetracht der sorgfaeltigen Mobilmachung von Heer und Marine haengt die ganze Kriegsfuehrung hiervon ab (Benzin)." (PE 400) (Vergleiche Verlaeufigen Schriftsatz, Teil I, Seiten 33 bis 35).

Ein Bericht der Reichsstelle fuer Wirtschaftsausbau vom Oktober 1934 zeigt genauer die Schritte, welche hinsichtlich des synthetischen Benzins unternommen worden sind. So sind (PE 516) spezifizierte Produktionszahlen fuer die verschiedenen Oelqualitaeten fuer den A-Fall angefuehrt, und wesentliche Einzelheiten ueber das Ausmass der Ausgaben fuer die Erweiterung der Einrichtungen werden vorgebracht. (Siehe Seite 6 bis 8 ueber die Zusammenfassung der Planung auf diesem Sektor). Vergleiche auch PE 517 ueber die Besprechung im Oktober 1943 zwischen Krauch, Schneider, Buettlich und General Bockelberg, Chef des Heereswaffenamtes, in der die Einzelheiten der Verflueissung - Synthesen in Leuna erklart wurden und zwar bezueglich des synthetischen Benzins. "Die Beduerfnisse der Luftfahrt werden besonders behandelt" und es herrschte darueber Uebereinstimmung, dass die besonderen technischen und technologischen Arbeiten in Ludwigshafen und Leuna durchgefuehrt werden.\*\*\* Die Richtlinien der I.G. werden hinsichtlich der Anweisung der Werke befolgt werden. Alle Kenntnisse und Erfahrungen der entsprechenden Versuchs- und Fertigungsanlagen der I.G. werden verwendet werden."  
(PE 517, oben auf Seite 2,3).

(21) Das naechste wichtige Stadium in der wirtschaftlichen Mobilisierungsplanung trat im April 1936 ein, als Goering zum<sup>11</sup> Bevollmaechtigten fuer Rohstoffe und Devisen ernannt wurde. Im darauf folgenden Monat, Mai 1936, wurde der Angeklagte Krauch in den Stab Goerings im Rohstoff-Amt berufen und uebernahm die Abteilung Forschung und Entwicklung (PE 426). Er brachte Dr. Ritter von der I.G. als seinen Assistenten mit, der bisher die Vermittlungsstelle fuer Sparte I (PE 2301, auf Seite 5)<sup>12</sup> geleitet hatte.

(22) Am 26. Mai 1936 nahm der Angeklagte Schmitz in seiner Eigenschaft als Mitglied von Goerings Sachverstaendigen-Ausschuss an einer Sitzung in Goerings Buero teil, in der die Wichtigkeit der Erzeugung von synthetischem Benzin und Gummi fuer die "Kriegsfuehrung" besprochen wurde. (PE 400, Seite 16, 18). "Gummi", sagte Goering, "ist unser schwachster Punkt, und alle Vorbereitungen muessen getroffen werden, um im A-Fall die Versorgung des Kriegsheeres zu gewaehrleisten." Am folgenden Tag, den 27. Mai 1936, liess Goering unter anderem den Kriegsminister, den Wirtschaftsminister, den Finanzminister und den Reichsbank-Praesidenten wissen, dass er "gegen jegliche finanzielle Beschraenkung der Kriegsproduktion sei und dass alle Massnahmen von dem Standpunkt der Sicherung der Kriegsfuehrung aus erwogen werden sollten." (IMT-Urteil, Band I, Seite 182; siehe auch PE 401). Zwei Monate spaeter schrieb Hitler an Goering, wobei er ihm die Grundlage des Vierjahresplanes ausinandersetzte (PE 411).<sup>13</sup>

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11. Vergleiche IMT-Urteil, Band I, Seite 182: "Es war notwendig, eine sichere finanzielle Grundlage fuer den Aufbau der Ruestung zu legen, und im April 1936 wurde der Angeklagte Goering zum Bevollmaechtigten fuer Rohstoffe und Devisen ernannt und ermachtigt, alle Betaetigungen des Staates und der Partei auf diesen Gebieten zu ueberwachen. In dieser Eigenschaft versammelte er den Kriegsminister, den Wirtschaftsminister, den Reichsfinanzminister, den Reichsbankpraesidenten und den preussischen Finanzminister, um die Probleme im Zusammenhang mit der Mobilisierung zu besprechen."

12. Wir werden Gelegenheit haben, auf Dr. Ritters Aussage zurueckzukommen. (Protokoll 9308).

13. Siehe Vorlaufigen Schriftsatz, Teil I, Seite 19.

Im folgenden Monat, September 1936, gab Hitler die Einfuehrung des Vierjahresplanes und Goerings Ernennung als Generalbevollmaechtigter bekannt. (IMT-Urteil, Band I, Seite 182, vergleiche PE 412). Krauch kam in das Amt fuer den Vierjahresplan (Protokoll 5075).

(23) Am 7. Oktober 1936 nahm der Angeklagte Buettfisch an einer Sitzung mit Mitgliedern des Rohstoff-Stabes teil, in welcher das Oelprogramm der Regierung im Zusammenhang mit dem Vierjahresplan besprochen wurde (PE 414). Kurze Zeit spaeter, am 12. Oktober 1936, besprachen Jaehne und Lautenschlaeger auf einer Sitzung des technischen Ausschusses zu Frankfurt die Einzelheiten der Erzeugung von Benzin, Gummi und Kunstfaser im Rahmen des Vierjahresplans (PE 529).<sup>14</sup> Am 17. Oktober 1936 berichtete der Angeklagte Schmitz dem Aufsichtsrat ueber "die grossen Aufgaben, welche die I.G. bezueglich Rohstoffe im Vierjahresplan habe, der vom Fuehrer verkundet worden ist." (PE 530).

(24) Am 6. Januar 1937 hielt Krauchs Amt fuer Roh- und Kunststoffe eine Besprechung ab mit Vertretern des Wehrwirtschaftsstabes des Kriegsministeriums, des Heeres-Waffenamtes, des Luftfahrtministeriums und Vertretern der Marine, bei der behandelt wurden: (1) Werke, die zwecks Herstellung von Pulver und Sprengstoffen errichtet werden sollten; (2) Bevorratung mit fertigem Pulver und Sprengstoffen; (3) Bevorratung von Vorprodukten und organischen Grundstoffen wie Nitrierpapier, Diglykol etc. auf 1 Jahr; (4) Anlagen fuer die Erzeugung von Kampfgasen; (5) Bevorratung mit Kampfgasen; (6) Bevorratung mit Zwischenprodukten fuer Kampfgase; (7) Bevorratung mit Losantin; (8) Auswahl der Standorte fuer die Lagerhaltung von Diglykol, Ammoniak, Salpetersaeure, Formalin, Hexogen etc. (PE 717).<sup>15</sup>

<sup>14</sup> Bezueglich der Kunstfaser sollte vermerkt werden, dass dieses Dokument die Zunahme der Erzeugung von Kunstfaser aufzeigt, die in Zusammenhang mit dem Vierjahresplan vor sich ging. Gajewski stellte im Zeugenstand in Abrede, dass seine Werke irgendetwas mit dem Vierjahresplan zu tun hatten.

<sup>15</sup> Die oben angefuehrten Gebiete bezogen sich auf Spezialgebiete, an denen I.G. beteiligt war und auf denen sie weiterhin mitwirkte.



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(25) Wir blicken zurueck auf die Taetigkeit der I.G. gegen Ende des Jahres 1936 wie sie in den Berichten des Reichsamtes fuer Wehrwirtschaftslenkung geschildert wird.<sup>16</sup> So zeigt das Ankl. Exh. 1817, dass von insgesamt vier Anlagen, die Trinitrotoluol herstellen, drei der Dynamit A.G. gehoerten (S. 3). In dem Bericht heisst es bezgl. Mononitrotoluol:

"Es entfallen auf die Trinitrotoluol-Fabrikation rund 90% ..... und die Sprengstofffabriken verbrauchten rund 95% der Inlandsware."

(26) Bei den aufgefuehrten Anlagen, die Mononitrotoluol herstellten, belief sich die Produktion der I.G. auf 99,6% (S. 4). Einzelheiten bezgl. der Pulver- und Sprengstoffherstellung der I.G. und DAG-Anlagen und der Zwischenprodukte fuer derartige Produktionen werden in diesem Bericht (FE 1817) naeher ausgefuehrt und zeigen, dass mehr als 90% der Produkte dieses Gebietes von der I.G. und der Dynamit A.G. hergestellt wurden. Um eines der wichtigeren Zwischenprodukte der Schiesspulverherstellung zu erwahnen, verweisen wir auf das Stabilisierungsmittel Pentaerythrit. Die I.G. stellte im Jahre 1936 74% der Pentaerythritproduktion Deutschlands her, und von den auf dem inlaendischen Markt getaetigten Verkauufen von 338 Tonnen gingen 292 Tonnen oder 86% an die Sprengstoffanlagen (S. 15). Von der Nitrocelluloseproduktion des Jahres 1936 gingen 69,3% in die Pulver- und Sprengstoffproduktion (S. 17). Von der I.G.-Produktion (einschliesslich WASAG, DAG und Wolff & Co.) gingen 96,3% in die Pulver- und Sprengstoffproduktion (S. 16). Im Jahre 1936 war die einzige Herstellerfirma fuer Nitrodiglykol die Dynamit A.G. in Kruemmel (S. 23). Das Diglykol, das die DAG-Anlage in Kruemmel zur Herstellung von Nitrodiglykol erhielt, kam ausschliesslich von der I.G. in Wolfen und Ludwigshafen, und in dem Bericht heisst es: "Die Produktion von

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16 Ihre Taetigkeit sollte u.E. im Lichte folgender Geschehnisse des oeffentlichen Lebens, die sich inzwischen ereignet hatten, beurteilt werden: Im Maerz 1935 gab Goering bekannt, dass Deutschland eine Luftwaffe baue; am 21. Mai 1935 wurde die Wehrpflicht und ein 500,000-Mann-Heer eingefuehrt, und gleichzeitig gab Hitler seine Absicht kund, die territorialen Grenzen des Versailler Vertrages zu respektieren. Im Maerz 1936 betraten deutsche Truppen die entmilitarisierte Zone des Rheinlands, und Hitler gab daraufhin bekannt: "Wir haben in Europa keine territorialen Forderungen zu stellen." (IIT-Urteil, Bd. I, S.184-186).

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Diglykol wird im Jahre 1936 ausschliesslich in Ludwigshafen durchgefuehrt." (S. 24).

(27) Im Jahre 1937 ueberstieg die Produktion der Anlage in Welfen die von Ludwigshafen, und diese beiden Anlagen deckten zu 100% den Diglykolbedarf Deutschlands. (PE 1817, S. 24). Praktisch 100% der Gesamterzeugung von Diglykol wurden im Jahre 1937 an die Sprengstoffanlagen zur Herstellung von Nitrodiglykol verkauft (S. 24)<sup>17</sup>. Es wird gezeigt, dass die Stabilisierungsmittel (die nur von I.G.-Anlagen hergestellt wurden, PE 612, 615) im Jahre 1936 von den Sprengstofffirmen der WAG verbraucht wurden (S. 25). Dieser Bericht bezieht sich auch auf die Produktion des Jahres 1937, und bezueglich Nitrodiglykols belief sich die Produktionssteigerung gegenueber dem Jahre 1936 auf 98% (S.31). Die Tabellen zeigen ferner das Uebergewicht der der I.G. angegliederten Gesellschaften in der Verwendung der verschiedenen Zwischenprodukte fuer Sprengstoffe.

(28) Das Jahr 1937 zeigt die weitere Planung auf dem Gebiete der wirtschaftlichen Mobilmachung fuer einen Krieg. Im Maerz 1937 hielt Hitler eine Rede ueber den Vierjahresplan, in der er behauptete, dass in zwei oder drei Jahren Deutschland bezueglich Benzin und

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17 Trotz dieser in den amtlichen Berichten der militaerischen Planungsstellen angegebenen Zahlen hat der Angeklagte Ambros immer wieder auf die abstrakte chemische Zusammensetzung und die Verwendungsmoeglichkeiten des Diglykols verwiesen, und seine ganze Verteidigung entwickelte sich zu einem technischen Ueberblick ueber die allgemeinen Verwendungsmoeglichkeiten des Diglykol. Er vermied sorgfaeltig die Frage, ob er gewusst haette, dass das bestimmte Produkt eigens fuer Pulver, Sprengstoffe und chemische Kampfstoffe hergestellt wurde. Angesichts der zwischen der I.G. und der DAG bestehenden Beziehungen (in post, Sub.E erboertert) und der Tatsache, dass die I.G. die Alleinherstellbrin von Diglykol war und die Produktion im Jahre 1936 ausgebaut wurde, faellt es schwer zu glauben, dass ihm die tatsaechliche und beabsichtigte Verwendung von Diglykol unbekannt war. Vergleiche weitere Ausfuehrungen in dieser Beziehung in seinem individuellen Schriftsatz.

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Gummi unabhängig sein werde. (FE 531, FE 21).<sup>18</sup> Im Mai 1937 wurde die "Bibel" des Vierjahresplanes, d.h. die Einzelheiten des Ausbaues der Einrichtungen und der Produktion, zusammengestellt. (FE 427).<sup>19</sup> Goering billigte diesen Plan, und Krauch<sup>20</sup> erteilte insbesondere Anregungen fuer die Seiten, die sich mit der Planung auf Gebieten befästen, auf denen sich die I.G. spezialisiert hatte, und billigte sie.<sup>21</sup>

18 Schacht war damals schon von der Bildfläse verschwunden, denn am 22. Februar 1937 schrieb General von Blomberg, der Oberbefehlshaber des Heeres, an Hitler: "Dr. Schacht hat mir mitgeteilt, dass er sich vorläufig nicht in seiner Eigenschaft als Generalbevollmächtigter (fuer Kriegswirtschaft) betätige, da nach seiner Ansicht zwischen den ihm uebertragenen Bevollmächtigungen und denen von Generaloberst Goering ein Konflikt bestehende. Aus diesem Grunde tritt in den Vorbereitungen fuer eine Mobilmachung auf wirtschaftlichem Gebiete eine Verzögerung ein."

"Zur Klärung der Verhältnisse darf ich darauf hinweisen, dass sich nach meiner Ansicht auf dem Gebiet der wirtschaftlichen Mobilmachung die Aufgaben des Herrn Generaloberst Goering als Beauftragten fuer den Vierjahresplan des Generalbevollmächtigten fuer die Kriegswirtschaft in keiner Weise ueberschneiden. Der Vierjahresplan hat in wehrwirtschaftlicher Beziehung die Aufgabe, die Engen, die sich in der wehrwirtschaftlichen Kraft des Reiches befinden, jetzt im Frieden, zu beseitigen. Insbesondere sind die Vorhaben zur Sicherstellung der Eigenversorgung mit Erzen, Treibstoffen und Kautschuk wehrwirtschaftlich von hoechster Bedeutung." (FE 418)

Nachdem Schacht aus der Mobilmachungsplanung auf dem erwähten Gebiete ausgeschieden war, tauchte Krauch auf. (Vgl. FE 700, in dem der Chef der Abteilung Chemie im Reichswirtschaftsministerium folgende Feststellung traf: "Schacht sagte mir im Jahre 1936 wiederholt, dass er die I.G., d.h. Schmitz sowie von Schnitzler, gewarnt habe, sich an den Projekten des Vierjahresplanes zu beteiligen.")

19 Dies ist das Beweisstück, das Photokopien von Tabellen und Zahlenmaterial der verschiedenen Spezialgebiete enthaelt und ueber das der Zeuge Hagert von der Verteidigung im Kreuzverhoer befragt wurde (Protokoll, S. 1463 ff.).

20 Waehrend der Meer sich im Zeugenstand befand (Protokoll, S. 7117), versuchte er zu erklären, warum die I.G. die Initiative ergriffen hatte, das Ausbauprogramm des Vierjahresplanes zu unterstuetzen im Gegensatz zu der Eisen- und Stahlindustrie, die eine Mithilfe abgelehnt hatte, indem er darauf hinwies, dass die Stahl-Leute die Meinung vertraten, dass die geforderten riesigen Kapitalanlagen in wirtschaftlicher Beziehung fuer Friedensbeduerfnisse zu riskant seien. Er stellte fest: "Es trifft zu, dass die Eisen- und Stahlindustrie im Rhein- und Ruhrgebiet nicht bereit war, sich zu beteiligen, als die Hermann-Goering-Werke eine Eisen- und Stahlindustrie in Mitteldeutschland errichteten. Sie hielten es nicht fuer ein gutes Geschäft, denn eine ziemlich grosse neue Eisenkapazität musste zu hoeheren Preisen beschaffen werden als die, zu denen man in der Ruhr Eisen aus schwedischen Erzen herstellte. Es koenne der Zeitpunkt eintreten, wenn die neuen Anlagen keine Arbeit haben wuerden, und da ihre Produkte kostspieliger



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waren als die der Industrie, mussten sie vielleicht geschlossen werden. Die Eisenindustriellen wollten nicht auf dieses riskante Geschäft eingehen, und so kam es, dass die Hermann-Goering-Werke, eine staatseigene Anlage, errichtet wurden." Vgl. FE 682.

Kurz nachdem Krauch in den Vierjahresplan eingetreten war, zeigt die Sofortplanung fuer die gesamte deutsche Industrie fuer den kurzen Zeitraum von Oktober 1936 bis Mai 1937 (das war der Plan, der der "Bibel" unmittelbar vorherging), dass von der gesamten Kapitalanlage im Rahmen dieses kurzfristigen Planes 66.5% fuer I.G.-Projekte bestimmt waren. (FE 429 unter Bezug auf S. 27 des FE 427; siehe auch Protokoll, S. 1496).

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Diese eingehende Planung erstreckte sich ueber die Jahre 1936 bis einschliesslich 1940, und fuer jedes Jahr war fuer jeden Sektor folgendes angegeben: (1) die Anzahl der bestehenden Anlagen und die Anzahl der auszubauenden und zu errichtenden Anlagen, sowie der Zeitraum, in dem der Ausbau bzw. der Bau fertigzustellen war; (2) es wurden fuer die fraglichen Jahre ungefähre Produktionszahlen fuer die bestehenden Anlagen sowie fuer die neuen Einrichtungen aufgefuehrt, und (3) die Kosten fuer derartige grosse Ausbaunehmungen, nach Jahren gegliedert

(29) Dr. Ritter, der in Krauchs Dienststelle im Mai 1936 eintrat (nachdem er seit 1926 bei der I.G. gewesen war, Protokoll, S. 9308), sagte aus, dass Krauch die Planung auf diesen Spezialgebieten mit der I.G. besprochen habe und dass die I.G. bei den Projekten des Vierjahresplanes das erste Recht hatte, eine Auswahl zu treffen (Protokoll, S. 9309-9311). Dies Beweisstueck laesst das Ausmass der Beteiligung der I.G. an

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21 Diese Sektoren erstreckten sich auf: Textilien (Kunstseide, Fasern, usw., S. 3a - 3i); Blei (S. 4a); Zink, Kupfer, Molybdaen und Nickel (S. 4d); Aluminium (S. 4b - 4h); Magnesium (S. 4i); Eisen und Stahl (S. 5a); fettfreie Waschmittel (S. 6); Gerbstoffe (S. 7); Russchwarz (S. 8a - 8b); Buna (S. 10a - 10b) Kunststoffe (S. 12); Mineraloel (S. 16w - 16z); Rohmaterialwirtschaft (S. 17b); Bau- und Werkstoffe (17c - 17h); Alkohol (S. 17i - 17k); Fasern (S. 17e - 17m); Chemie (Schwefelsaure, Salpetersaure, vorlaeufige Pulver, Vorprodukte fuer Pulver, Sprengstoffe und chemische Kampfstoffe in Bereitschaftsanlagen, usw. S. 20a - 20p); Ersatzstoffe (S. 24a - 24c). Das Original dieses Beweisstueckes, das dem Secretary General eingereicht wurde, zeigt Krauchs Initialen am unteren Rande der Seite unter Abteilung III. Die Photokopie, die dem Gerichtshof vorgelegt wurde, ist eine Uebersetzung aus dem Deutschen, und Krauchs Initialen wurden nicht uebertragen.

der wirtschaftlichen und industriellen Mobilmachung erkennen.<sup>22</sup>

(30) In diesem Plan der wirtschaftlichen Mobilmachung auf dem gesamten chemischen Gebiete (ausser Mineraloel) war fuer die I.G. der Loewenanteil vorgesehen, und zwar 85% aller geplanten Ausbauunternehmungen. (PE 429, PE 428, siehe Hagerts Zeugenaussage, Protokoll S.1483 ff). Auf dem Mineraloelsektor, einschliesslich reichseigener Anlagen, die jedoch von der I.G. bzw. ihren Lizenztraegern betrieben wurden, betrug die Zuteilung 90%. Fuer synthetischen Gummi betrug die Zuteilung

22 Die Sektoren, auf die wir besonders hinweisen, sind: Auf dem Gebiet der Holzzellwolle (Sparte III, Gajowski's Bereich) werden die von 1936 bis 1938 auszubauenden I.G.-Anlagen angegeben (auf S. 30); auf dem Magnesiumgebiet wurde die schatzungsweise Produktion der I.G.-Anlagen bis zum Jahre 1938 angesichts des nach 1934 erfolgten Baues der neuen Anlagen Alton und Stassfurth und des Ausbaues der Einrichtungen in Bitterfeld (auf S. 41) fuer ausreichend angesehen; auf dem Gebiet der fettfreien Waschmittel wird auf den Ausbau der Anlagen in Schkopau und Hoechst fuer die Jahre 1937/38 hingewiesen (S.6). Die Vergrößerung der Produktionsanlagen fuer synthetische Gerbstoffe in Leverkusen fuer die Jahre 1937 und 1938 wird angegeben (S.7); es wird auf die Planung auf dem Gebiete des synthetischen Gummi in Bezug auf Schkopau hingewiesen, und Andeutungen werden ueber den Bau der Anlagen in Huels, Fuchsenberg und Auschwitz gemacht (S. 10a); es wird auf den Ausbau der Einrichtungen in Ludwigshafen, Bitterfeld und Schkopau fuer Chlor-Vorprodukte hingewiesen (S.12); es wird auf den Ausbau der Anlagen in Schkopau, Trostberg, Hoechst und Ludwigshafen fuer die Jahre 1937 und 1938 auf dem Gebiet des Karbidalkohols hingewiesen, und es wird dazu bemerkt, dass vor dem Jahre 1938 keine eigentliche Produktion fuer dieses Erzeugnis in Deutschland bestand und dass man die Produktion dieses Zwischenproduktes fuer den "Mob"-Fall beabsichtige (S.13). Auf dem Mineraloelgebiet (synthetisches Benzin) wird die Vorherrschaft der I.G. gezeigt, und der Zeuge Hagert von der Reichsgruppe Chemie sagte aus, dass sich die Planung auf diesem Gebiet, die sich auf I.G.-eigene und von der I.G. oder ihren Lizenztraegern betriebene Anlagen bezog, sich auf 90 % belief (PE 51, siehe Protokoll S.1480 ff). Im Zusammenhang mit dem Bau von Schwefelsaure-Anlagen weist die Planung den weitgehenden Ausbau der Anlagen in Ludwigshafen, Leverkusen und Hoechst auf und enthaelt die Anmerkung, dass die Fehlleistungen der erhohten Schwefelsaureproduktion durch den Bau von Schwefelgaes-Anlagen ausgeglichen wurden (S. 20c). Auf dem Gebiet hochkonzentrierter Salpetersaure wird auf das Ausmass der Planung hingewiesen, sowie auf die Tatsache, dass von 1937 bis 1939 die Anlagen auf Reichskosten erbaut worden wurden (S. 20d). Einzelheiten ueber weitere Einrichtungen auf den einzelnen Gebieten der anorganischen und organischen Chemie werden auf den Seiten 20f bis 20i ausgefuehrt. Auf dem Gebiet der Vorprodukte fuer Pulver, Sprengstoffe und chemische Kampfstoffe wurde der Anlagenausbau mit dem Heereswaffenamt gemeinsam ausgearbeitet und erstreckte sich ueber die Zeit von 1937 bis 1940 (S. 20k bis 20n). Die Planung weiterer Einrichtungen fuer Diglykol und Thiodiglykol als Vorprodukte fuer chemische Kampfstoffe und Sprengstoffe ist fuer die Jahre 1937 bis 1939 angegeben (S. 20n bis 20p).



100 %<sup>23</sup>; fuer Vorprodukte und Sprengstoffe sowie fuer chemische Kampfstoffe betrug die Zuteilung 100 %, fuer auusserst kriegswichtige Vorprodukte, wie z.B. Diglykol und Thiodiglykol, betrug die Zuteilung 100 % und fuer Methanol und Ammoniak (Stickstoff) 100 %. (PE 426, siehe auch Zeugenaussage Elias, Protokoll, S.1348 ff).

(31) Dies ist die Gesamtplanung des Vierjahresplanes, an der sich die I.G. mit Krauch beteiligte. Der Einmarsch in Polen fand vor der sorgfaeltigen Durchfuehrung der Plaene statt. Die Tatsache, auf die wir die Aufmerksamkeit lenken wollen, ist die Kenntnis dieser Plaene und ihre Beteiligung an deren Vorbereitung.<sup>24</sup>

(32) Wir werden nunmehr nachweisen, dass der Ausbau von Anlagen, der tatsaechlich von der I.G. unternommen wurde, gemass der in der "Bibel" ausgefuehrten Planung geschah.

(33) Die Ausgaben und Kapitalberichtigungen der I.G. stiegen vom Jahre 1936 bis zum Jahre 1937 von 42.7 Millionen RM auf 96.3 Millionen RM. Daran beteiligte sich der gesamte Vorstand. Die fuer die der I.G. angeschlossenen Gesellschaften zur Verfuegung stehenden Kapitalien stiegen waehrend des gleichen Jahres von 10.8 Millionen RM auf 35.7 Millionen RM an. (PE 684; PE 685). Fuer das Jahr 1938, als bereits bestimmte Angriffshandlungen stattgefunden hatten, finden wir, dass die Kapitalaufstockungen der I.G. einen Hoechststand erreicht hatten, und zwar 400,000,000.-- RM (PE 684)<sup>25</sup>.

23 Zwei Wochen nachdem Goering die "Bibel" gebilligt hatte, schrieb der Hoerr im Namen der I.G. an Goering und fuehrte aus: "Wir sind bereit, Lizenzvertraege ueber jeweils zehn Jahre mit weiteren Buna-Anlagen zu unterzeichnen, die im Rahmen des Vierjahresplanes errichtet werden sollen." (BE 557).

24 Im August 1937, kurz nach der Veroeffentlichung der "Bibel", machte Krauch, der darauf bedacht war, das technische und wissenschaftliche Personal bei der Durchfuehrung des Vierjahresplans einzusetzen, folgende Feststellung: "Der von der nationalsozialistischen Fuehrung erzielte wirtschaftliche Fortschritt und die Wiederaufruestung haben praktisch alles, was auf dem Gebiete des technischen und chemisch ausgebildeten Nachwuchses zur Verfuegung stand, aufgesogen." (PE 22, auf S.2). Siehe auch PE 553; in dem Krauch die Feststellung traf, dass infolge der Tatsache, dass es "zum ersten Male eine technisch eingestellte Dienststelle gab, die mit Partei und Regierung in engen Zusammenhang stand, Forschungs- und Entwicklungsfragen aller Rohstoffgebiete behandelt worden sind, es moeglich war, einen Plan zu entwickeln fuer die industrielle Produktion der neuen deutschen Rohstoffe und Kunststoffe, der die verschiedenen Gebiete koordinierte und die weitgehenden Verflechtungen, insbesondere auf dem Gebiet der chemischen Synthese, beruecksichtigt und der den Anweisungen entsprach, die der Beauftragte des Fuehrers fuer den Vierjahresplan erlassen hatte." (auf S. 2).

25 Vgl. die Eroerterung im vorlaeufigen Schriftsatz, Teil I, bzgl. Anlagen-Einrichtungen, auf S. 41-44.

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(34) Wenn wir auf das Jahr 1937 zurueckblicken, erkennen wir das Ausmass der tatsaechlichen Betaeetigung der I.G., wie es von aemtlichen Regierungsstellen berichtet wird. Im Jahre 1937 wurde von Regierungsbeamten ein Ueberblick ueber die auf dem Gebiete des synthetischen Benzins gemachten Fortschritte zusammengestellt, (PE 540)<sup>26</sup> und sie trafen u.a. folgende Feststellung:

"Das deutsche Volk ist jenen Maennern zu Dank verpflichtet, die sich bereits zu einer Zeit mit dem Problem der Umwandlung von Kohle in Oel beschaeftigt haben, in der von wirtschaftlichen Gesichtspunkten aus an eine grosstechnische Verwirklichung des Problems noch gar nicht zu denken war." (PE 540, oben S.3)

(35) Im Oktober 1937 stellte Krauchs fuer Roh- und Werkstoffe einen Bericht zusammen, der Goering uebermittelt wurde, und in dem die im Rahmen des Vierjahresplanes im Jahre 1937 erzielten Ergebnisse aufgefuehrt waren (PE 130). In diesem Bericht wird auf den Ursprung des Vierjahresplanes hingewiesen, und es wird u.a. gesagt, dass er "die Friedens- und Kriegsboeuerfnisse sicherstelle." (S.2) Bei der Boerterung der Moeglichkeiten, wie man den Bedarf decken koenne, ohne auf Einfuehren zurueckzugreifen, wird in dem Bericht ausgefuehrt, dass "zwischen den in Frage kommenden Reichs- und Parteidienststellen, und insbesondere mit der industriellen Wirtschaft, deren Mitarbeit bei der Durchfuehrung dieser Plaeane unerlaesslich sei, das bestmoeglichste Einvernehmen bestaende". Auf dem Rande des Dokumentes, das sich auf die Zusammenarbeit mit der industriellen Wirtschaft bezieht, befindet sich die handschriftliche Notiz "I.G. Farben". (S. 2)<sup>27</sup>. Dieser Bericht von Krauchs Dienststelle zeigt die Uebereinstimmung mit dem Gesamtbericht des Bevollmaechtigten fuer Kriegswirtschaft ueber die Vorbereitung einer wirtschaftlichen Mobilmaechung seit Ende 1937 (PE 719), der auch beginnt: "Die Aufgabe. Im Krieg - Im Frieden." (S.2) Dann folgt ein detaillierter Plan fuer die Mobilmaechung der industriellen Kriegswirtschaft. In Verbindung mit diesen Plaeanen fuehrt der Bericht aus:

26 Der Verfasser dieses Berichtes, Koppenberg, war der Mann, der waehrend der Sitzung im Oktober 1934 das Protokoll fuehrte als Krauch, Schneider und Bueckofisch mit dem Chef des Heereswaffenamtes die Einzelheiten bzgl. synthetischen Benzins besprachen. (PE 517).

27 Dies ist u.E. weiteres Beweismaterial fuer die Tatsache, dass sich die I.G. an der mit dem Vierjahresplan verbundenen Planung beteiligte.

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.... " In diesen Plaenen werden der Wehrmachtsbedarf und der zivile Mindestbedarf im Kriegsfall der Deckung durch Vorräte und Erzeugung gegenuebergestellt. Ein sich ergebender Fehlbedarf wird dem Amt fuer deutsche Roh- und Werkstoffe zur Beruecksichtigung bei der Durchfuehrung des Vierjahresplanes angemeldet. Er wird ausserdem als Einfuhrbedarf in den Aussenhandelsplaenen aufgenommen, die von der Wehrwirtschaftlichen Abteilung des Reichswirtschaftsministeriums in Zusammenarbeit mit den Wirtschaftsgruppen der Organisation der gewerblichen Wirtschaft ausgearbeitet werden. .... Fuer Ostpreussen befinden sich besondere Wirtschaftsplaene in Bearbeitung." ( S. 5 ).

Im Zusammenhang mit der Mobilisierung der gewerblichen Wirtschaft fuer den Krieg bezieht sich der Bericht auf die Erstellung von Lagerungsmoeglichkeiten und von Werkseinrichtungen, und besonders auf die Kapazitaeten und die Herstellung von Salpetersaure, konzentrierter Schwefelsaure ( Cleum ), Karbidalkohol, Aluminium, und verschiedenen Arten synthetischen Benzins und Oels. ( Seite 7-8 ). 28

( 36 ) 1938 war das kritische Jahr. Der Angriff auf Oesterreich, der im Maerz dieses Jahres stattfand, machte es noetig, dass fruhere Plaene noch einmal ueberprueft wurden, und so weit sie hinter den neuen Forderungen der Aussenpolitik der Regierung zurueckstanden, wurden sie abgeaendert, um sich den verdringlichen Beduerfnissen zur Unterstuetzung der Angriffspolitik anzupassen. 29 Weniger als einen Monat nach dem Einfall in Oesterreich, naemlich am 8. April 1938, bereitete die Reichsstelle fuer Wirtschaftsausbau (Krauch) einen Bericht vor, der "Sicherung der Mob-Versorgung durch Bevorratung" (PE 718) genannt wurde und der Goering's Stellvertreter im Vierjahresplan ( Staatssekretaer Keerner ), sowie gewissen technischen Fachleuten im militaerischen Stab des Vierjahresplanes zugesandt wurde. In diesem Bericht, der eine geheime Reichssache war, befanden sich die Schlussfolgerungen aus einer Ueberpruefung der gewerblichen Industrie und es wurde der Vorschlag gemacht, dass "die Mob-Versorgung durch zusaezliche Einfuhr

- 28 In diesem Dokument werden gewisse Mob-Massnahmen, besonders der Arbeitseinsatz fuer kriegswichtige Industrien, eingehend ercoertort ( S.15-17 ) und wir moechten vorschlagen, dass der Charakter der verschiedenen Mob-Vorbereitungen der I.G. Farbenwerke, nicht nur hinsichtlich ihrer Produktion sondern auch hinsichtlich des Arbeitseinsatzes, vom Gesichtspunkte dieses Dokumentes betrachtet werden sollte. Vgl. die Mob-Planung dieses Dokumentes mit der von 1934. ( PE 716 ).
- 29 Einen Monat bevor Oesterreich angegriffen wurde, ueberredete Goering Hitler, die Reichsstellen so umzuorganisieren, dass Goering, als Haupt des Vierjahresplanes, ueber die gesamte Wirtschaft absolute Macht erhielt. ( PE 433 ).



und Bevorratung lebenswichtiger Rohstoffe sichergestellt" werden solle. Einzelheiten fuer das "erste Mch-Jahr" und zusaetzliche Bevorratung fuer das "zweite Mch-Jahr" wurden erwaertet und es erscheint in dem Bericht die bedeutsame Feststellung, dass " die durch den Anschluss des Landes Oesterreich auftretenden Mch-Mehrbedarfe nicht besonders beruecksichtigt sind. Da sie sich in der Grossenordnung von etwa 10% bewegen werden, liegen sie nahe der Fehlergrenze der gesamten Angaben ueber die Mch-bedarfe. Die fuer die Inlanderzeugung sich ergebenden Gesichtspunkte durch die Einbeziehung des oesterreichischen Wirtschaftsraumes sind bei den Ueberlegungen beruecksichtigt." ( Seite 3).

Der Bericht hebt senders die Notwendigkeit der Bevorratung von Schwefelkies ( Rohmaterial fuer Schwefelsaure ) hervor. ( Seite 4). Hinsichtlich der Kautschukversorgung, stellt der Mch-Plan in diesem Stadium folgendes fest:

" Hier ist die neueste Mch-Anforderung mit 65 000 Jate beruecksichtigt. Die bis vor kurzem genannte Foerderung von rund 102 000 Jate ist zur Zeit verlassen worden. Vom zweiten Mch-Jahr ab heute gerechnet tritt die Erzeugung von Buna bereits sehr merkbar in Erscheinung." 30 (Seite 5

Der Masstab fuer die Planung in diesem Stadium ist in dem Bericht wie folgt angedeutet:

" Bei der Feststellung der Mch-Luecken wurde der unguenstige Fall angenommen, dass Deutschland im Mch-Fall ohne jede Einfuhr bleibt und nur auf die Eigenerzeugung und die vorhandenen Vorrate angewiesen ist." ( Seite 7 ) 31

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30 Wir werden diese Zahl im Zusammenhang mit Buna in den briefs ueber ter Meer und Ambrs im Einzelnen erwaertern. Hier mag es genuegen festzustellen, dass die Mch-Zahl 65 000 Jate war, und dass ter Meer den Versuch machte zu unterstellen, dass der Verbrauch fuer zivile Zwecke ( wobei er zivile betonte ) 100 000 Jate betrug. ( Transcr.6996

31 Der Verfasser dieses Dokumentes ist wahrscheinlich Dr. Ritter, Krauchs Mitarbeiter, der auf der Verteilerliste fuer die 6 Exemplare dieses Berichtes an erster Stelle steht. Krauch bekam natuerlich auch ein Exemplar.

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( 37 ) Im Juni 1938 besprach Krauch mit Goering die beschleunigten Pläne fuer die Produktionserhöhungen besonders auf den Gebieten des Pulvers, der Sprengstoffe, und der Verprodukte. Krauch hat ausgesagt, dass Goering ihm damals mitteilte, er habe von General Keitel erfahren, das Hindenburg-Programm fuer die Erzeugung von Pulver und Sprengstoffen sei erreicht worden. Das Hindenburg-Programm kennzeichnete die deutsche Höchstproduktion auf diesem Gebiet im ersten Weltkrieg. ( Tr. 5092 ).  
Krauch teilte Goering mit, dass:

" die Ansicht von Keitel, dass das Hindenburgprogramm in der Produktion erreicht waere, in keiner Weise zutreffend sei, da mir sonst die Abrufe der Stickstoffindustrie, die ja die Hauptproduktion der Pulver- und Sprengstoffherstellung zu liefern hatte, im ganz anderen Ausmass bekannt sein muessen. \*\*\*\*\* Ich liess mir die Zahlen von der Stickstoffindustrie geben, die die jährlichen Lieferungen an die Pulver- und Sprengstofffabriken wiedergeben. Es stellte sich heraus, dass nur 1/5 oder 1/6 der Hindenburgproduktion im Jahre 1938 erreicht werden konnte." ( Tr. 5114 ) 32

( 38 ) Infolge von Krauchs Unterredung mit Goering arbeitete Krauch am 12. Juli 1938 /33/ einen neuen wehrwirtschaftlichen Erzeugungsplan aus und zwar fuer die Gebiete des Mineraloels ( synthetisches Benzin, Kautschuk, Leichtmetalle, Pulver, Brennstoffe, chemische Kampfstoffe und Verprodukte ). ( PE 442 ). Neue Mkb-ziele vom Produktionsstandpunkt wurden fuer jedes dieser Gebiete festgesetzt; fuer synthetisches Benzin wurden zusätzliche Bereitschaftsanlagen und Bevorratungsmöglichkeiten erwacht. ( Seite 2 ). Bei Kautschuk wurde das fruhere Mkb-Ziel von 70.000 Tons auf 120.000 Tons heraufgesetzt und zusätzliche Kapazitäten sollten geschaffen werden, um diesen Bedarf zu decken. ( Seite 2 ). Bei Leichtmetallen wurde der Vorschlag gemacht, Bitterfeld zu erweitern und ausserdem eine weitere Anlage zu bauen, um den zusätzlichen Bedarf sicherzustellen. ( Seite 3 ).

32 Waehrend ihrer Zeugenaussage ueber die Produktionserhöhung auf dem Stickstoffgebiet bestanden Bueterfisch und Schneider darauf, die Produktion sei fuer Kunstduenger gewesen. Hier haben wir Krauchs Aussage, dass er durch die Stickstoffindustrie ( I.G. Farben ) von den Lieferungen an die Sprengstofffabriken Kenntnis erhalten hatte. Wir werden spaeater (unter C) auf die Zuverlaessigkeit von ter Meers Aussage, dass der Ausbau der Stickstoffproduktion dem von 1929 entsprach und nur Friedenszwecken und der Herstellung von Kunstduenger diene, eingehen.

33 Zwei Wochen vorher hatte Krauch einen beschleunigten Plan fuer die Pulver-, Sprengstoff- und chemischen Kampfstoffgebiete unterbreitet. ( PE 439 ).

Auf dem Gebiet des Pulvers, der Sprengstoffe und der chemischen Kampfstoffe sah der Plan "aeusserste Beschleunigung aller Bauverhaben dieser Gebiete, einschliesslich der Vorprodukte vor, ..... Der Pulver- und Sprengstoffplan kann Mitte 1941 erfuehrt sein, Der Kampfstoffplan Anfang 1942." ( Seite 3). 34

( 29 ) Drei Tage nach dem Datum des wahrwirtschaftlichen Erzeugungsplanes Krauchs vom 12. Juli 1938 wurde I.G. Farben beauftragt, diesen Plan im Gebiete der chemischen Kampfstoffe und des Diglykol zur Ausfuehrung zu bringen. So wurde die I.G. am 15. Juli 1938 beauftragt, ihre Diglykolerzeugung in Ludwigshafen sofort auszubauen, die Diglykolkapazitaet in Telfen zu erweitern, den Ausbau von Diglykol in Schkopau zu beschleunigen, die Erstellung von Diglykolanlagen in Huels und Trestberg zu foerden, Unterstuetzung in der Erhoehung der Aethylenoxydherzeugung; die Organid wurde beauftragt, Ammonderf auszubauen, wobei Aethylenoxyd von Schkopau geliefert werden sollte und zusaetzliche Apparate fuer die Erzeugung von Oxal nach Ludwigshafen, fuer die Erstellung von Versuchsanlagen in Ludwigshafen fuer die Test-Zwischenprodukte, fuer Versuchsanlagen in Zusammenhang mit Test in Schkopau ( PE 444, siehe oben). 35  
( Bemerkung des Uebersetzers: Das Englisch des Originals ist grammatikalisch hoechst verworren). Am Tage nach dem I.G. Farben diese Auftraege erhielt, hatte Goering eine Unterredung mit dem Heereswaffenamt ueber Krauchs neuen Erzeugungsplan vom 12. Juli 1938 auf dem Sprengstoff- und chemischen Kampfstoffgebiet. ( Krauch PE 445). Am selben Tage teilte er dem Oberkommando der Wehrmacht mit, dass er beabsichtige, zur Durchfuehrung des Planes einen Generalbevollmaechtigten zu ernennen. Fuenf Tage

34 Wir moechten hier auf den Unterschied zwischen der Planung der wirtschaftlichen Mobilmachung und ihrer Ausfuehrung hinweisen. Im vorliegenden Falle hatte der Angeklagte Ambros eine Unterredung mit Krauch, wie aus seinem Brief vom 27. Juni 1938 ( PE 438 ) hervorgeht, der drei Tage vor den eingehenderen beschleunigten Plaenen vom 30. Juni 1938 fuer Vorprodukte auf den Gebieten des Pulvers, der Sprengstoffe und der chemischen Kampfstoffe ( PE 439, 440 ) geschrieben wurde.

35 Diese Arbeiten beziehen sich besonders auf das Gebiet, auf dem der Angeklagte Ambros der technische Fachmann war. Vgl. F.



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spector, am 21. Juli 1938, richtete General Keitel einen Brief an Goering, in dem er den Wunsch zum Ausdruck brachte, dass das Haupt des Heereswaffenamtes zu diesem Amt ernannt werden möge (PE 447). Am Tage darauf, am 22. Juli 1938, richtete Krauch an Unterstaatssekretär Koerner (zur Weiterleitung an Goering) eine ins einzelne gehende Erwiderung auf die Einwürfe Keitels und des Heereswaffenamtes (PE 448). In dieser Erwiderung stellte Krauch folgendes fest:

\*\*\* Die verfahrensmässige Entwicklung und Schaffung dieser Stoffe (Zwischenprodukte fuer Pulver und Sprengstoffe) liegt jedoch bei der Industrie. \*\*\* Die Duenostickstoffbasis ist gleichzeitig durch ihren Exportrückgang in hohem Masse dem Rückgang der gesamten Salpetersäure und des Natriumsalpeters. \*\*\* 36 Das Gleiche gilt besonders stark fuer die gesamte Acetylenchemie, die mit dem Diglykol fuer Pulver, und den Kampfstoffen unlösbar mit den gesamten Anlagen der Kokereien und Mineralölsynthesen verknüpft ist. \*\*\* Bereits Ende des Jahres 1936 ist wiederholt auf die dringende Notwendigkeit der Bevorratung hingewiesen worden. Schon damals wurde z.B. von mir verlangt, dass wesentliche Toluolmengen fuer die vorhandenen Sprengstofffabriken eingelagert werden sollten. \*\*\* Das Hindenburg-Programm habe ich deshalb als Vergleichsmaßstab fuer die erreichte Deckung zugrunde gelegt, weil in Grosskampfe 1918 in einem Monat als Höchstverbrauch die geforderten Mengen des Programms nahezu tatsächlich verschossen wurden. Meines Erachtens kann das Hindenburg-Programm nur die unterste Grenze des Bedarfs angeben, da im ersten Weltkrieg weder Flak noch Abwehrmunition annähernd die Rolle spielten, wie heute. Weiterhin ist mir bekannt, dass das Ausland, insbesondere England und Amerika, seit etwa 2 Jahren intensiv am Ausbau ihrer Kampfstoffbasis arbeiten. \*\*\* Vom Amt fuer deutsche Roh- und Werkstoffe Mitte 1937 der Bau von 4 Pontonrühranlagen dringlich in Angriff genommen wurde, ohne dass die dazu erforderlichen Mittel bereitgestellt waren. \*\*\* Die in den letzten Tagen mit den verantwortlichen Personen der am Ausbau beteiligten Industriezweige geführten Besprechungen haben ergeben, dass gerade auf dem von mir vorgeschlagenen Wege eine Beschleunigung der Erzeugungsteigerung erreicht wird.\*\*\* 37

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- 36 Vgl. Jacobi Affidavit, dass im Jahre 1936 "Das deutsche Stickstoffsyndikat den Internationalen Kartell mitteilte, es koenne nicht genügend Stickstoff liefern, um seine volle Exportquote zu erfüllen (PE-611)."
- 37 Vgl. Ambros' Brief an Krauch vom 27. Juni 1938 (PE 438).

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"Die beteiligten Firmen sind mit Freuden bereit, die Verantwortung fuer die schnellstmögliche beschleunigte Durchführung selbst zu uebernehmen. \* \* \* Die Industrie hat sich bereits verbindlich bereit erklärt, ihre besten Krafte fuer die Durchführung der ihr von mir gestellten Aufgaben einzusetzen. \* \* \* Wie schon vorher gesagt, sind die Erzeugung von Pulver, Sprengstoffen und Kampfstoffen chemische Verfahren. Sie sind deshalb nicht losgelöst von der uebrigen Industrie zu bearbeiten. Es ist selbstverstaendlich, dass mein Vorgehen in engster Fuchlungnahme mit dem HWA erfolgt." 38

(40) Infolge von Krauchs Unterredung mit dem Haupt des HWA wurde der neue Schnellplan fuer die Erzeugung von Pulver, Sprengstoffen und chemischen Kampfstoffen am 13. August 1938 (PE 449) zusammengestellt, und am 22. August 1938 wurde dann Krauch mit der Ausfuhrung dieses Planes betraut (PE 453). Die Einzelheiten des Planes sind aus PE 449 ersichtlich. 39 Kurz

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38 Man bemerke die Aehnlichkeit zwischen Krauchs Betonung der Zwischenprodukte und dem Befund des oben erwachten U.S. Strategic Bombing Survey, PE 616, 715. So heisst es zum Beispiel in PE 715: "Die Pulver- und Sprengstoffindustrie ist nie zum Ziel eines systematischen Angriffes gemacht worden. \* \* \* Die Lage in der Pulver- und Sprengstoffindustrie wurde dann kritisch, als es an den Grundstoffen, namentlich an Stickstoff und Methanol mangelte: dieser Mangel war aber zurueckzufuehren auf die Angriffe auf die synthetischen Anlagen, und nicht auf die Luftangriffe auf die Industrie selbst." Vergleiche auch Krauchs Aussage (Transcript: Englisch 5089-5097), besonders die folgende Stelle: "Kittel hatte bei Goering angegeben, dass es fuer die Heeresleitung untragbar waere, wenn ein Mann aus der Industrie Einblick bekommen wuerde in die Zahlen der Ruestung. Es sei unmöglich, dass ein Mann der Wirtschaft Kenntnis bekommen wuerde, wieviele Divisionen aufgestellt waeren, wie weit die Planung ging fuer die Aufstellung von Bombengeschwadern; denn es war ja eine einfache Ausrechnung aus der Zahl des da fuer gelieferten Sprengstoffes, sich zu errechnen, mit welchen Bombenabwerfen, bzw. mit welchen Artilleriebeschuss gerechnet werden konnte. Er forderte deshalb Goering auf, fuer dieses Gebiet einen besonderen Generalbevollmaechtigten vorzuschlagen, in der Person des Chefs, des damaligen Chefs des Heereswaffenamtes, General Becker. \* \* \* Goering rief mich und empfahl mir, eine Besprechung mit General Becker zu halten. \* \* \* Er bat mich, auf guetlichen Wege mich mit General Becker zu einigen. Vgl. Ritters Aussage (Transcript: Englisch Seite 9311), dass Krauchs Dienststelle damals den Erzeugungsplan 63 ausarbeitete. Dies war der Plan, nach dem 63 Divisionen kriegsmässig ausgeruestet werden sollten (Ehmann, Transcript: Englisch Seite 5373); vgl. Zahns Aussage (HWA) (Transcript: Englisch Seite 11587, 11452-11455).

39 Vgl. auch PE 452, besonders Seiten 12 und 13, wo Krauch Unterredungen mit den Sprengstofffirmen erwachnt, "DAG, Deutsche Sprengstoffchemie, WASAG und I.G., und Einzelheiten ueber den Stand der einzelnen Vorhaben der DAG-Werke." Vgl. auch Schindlers Aussage, des Chefingenieurs der Dynamit-A.G., wonach er mit Krauch Einzelheiten des Sprengstoffprogrammes besprochen hatte (Transcript: Englisch Seite 12736). Vgl. auch die Ausfuhrungen in diesem Brief bezueglich der DAG in Hinblick auf die wiederholten Behauptungen der Verteidigung, sie haetten ueber die Betätigung der DAG und der anderen angegliederten Firmen auf diesem Gebiet gar nichts gewusst. - 22 -

Nach der Münchener Krise unterbreitete Krauch Stelle einen Bericht ueber den Erfolg des neuen Schnellplanes bis zum 1. Oktober 1938. ( PE 449 ). Die Gebiete des Mineraloels, Kautschuks, der Leichtmetalle, Pulver und Sprengstoffe, chemischen Kampfstoffe und Vorprodukte ( PE 449, S. 1 ) wurden besonders betont. Bezgl. der I.G. Farbenwerke heisst es in dem Bericht, dass die Arbeit "planmassig fortschreite".

( 41 ) Der Zeuge der Verteidigung, Dr. Ritter, der Krauchs Stellvertreter im Vierjahresplan war ( Transkr. Engl.Seite 5242 ), hat ausgesagt, dass beim Generalbevollmaechtigten fuer Chemie Erzeugungsplan 63 ( Trans. Engl.S. 9311 ), welcher der HWA-Plan fuer die Ausruestung von 63 Divisionen war, ausgearbeitet worden sei. Waehrend dieser Zeit wurde dieser Plan noch erweitert fuer mindestens 64 und hoechstens 94 Divisionen, und Krauchs Dienststelle wusste, dass sie damit beschaeftigt war, Plaene zur Sicherstellung der Erfordernisse dieses Planes auszuarbeiten. ( Trans. Engl.S. 9321-9322 )

( 42 ) Im Jahre 1939 wurden die bisher aufgestellten Plaene vom Standpunkt der zusaetzlichen Erfordernisse des Militaers noch einmal ueberprueft. Z.B. unterbreitete Krauch am 31. Januar 1939 Goering einen Bericht ueber den Stand des Mineraloelverhabens und er betonte in seinem Bericht, dass "Mineraloel fuer die moderne Kriegsfuehrung genau so wichtig ist wie Flugzeuge, Panzerfahrzeuge, Schiffe, Waffen und Munition. .... Der mit der Fuehrerrede vom Oktober 1936 befehlene 18-Monate-Plan zur Ausweitung der Mineraloelerzeugung ist heute noch bei weitem nicht erreicht. 41 kann nicht umgehend durchgreifende Entschluesse

40 Dr. Zahn, der Chef der HWA-Abteilung fuer Pulver, Sprengstoffe und chemische Kampfstoffe hat ausgesagt, dass der Erzeugungsplan 63 ( PP 63 ) ein Sofortplan war, und dass es der Anfang einer Planung auf lange Sicht gewesen sei, die neben der Ausfuehrung des Sofortplanes 63 herlief, als der Karinhall-Plan im Jahre 1938 inkraft gesetzt wurde. ( Trans. Engl.S. 11587, vgl. auch Trans.Engl.S. 11452-11455 ).

41 Diese Bemerkung kommt auch in der Vertragsnotiz vor, welche Krauch zwei Wochen vorher unterbreitet hatte ( PE 537 ) und in jenem Bericht wurde nach die zusaetzliche "Folgerung" gezogen Mineraloel "muss daher genau so wie jedes andere Kriegsgeraet im Rahmen der gesamten Mob-Vorbereitungen gold- und rohstoffmaessig beruecksichtigt werden." ( Seite 3 ).



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die den praktischen Erfordernissen Rechnung tragen, gefasst werden, ist mit einem voelligen Scheitern des weiteren Ausbaues der Mineraloelversorgung zu rechnen." (PE 538). Zwei Wochen vorher, naemlich am 10. Januar 1939 hatte Krauch eine Vortragsnotiz gemacht, die die Grundlage seines Berichtes an Goering bildete und in dieser Vortragsnotiz heisst es: "Der Erfolg der Aufruestung mit ihrer starken Motorisierung haengt zu einem sehr erheblichen Masse von einer Sicherung der Mineraloelversorgung ab. Der Generalbevollmaechtigte fuer chemische Sondererzeugung, Dr. Krauch, hat einen Mineraloel-Erzeugungsplan aufgestellt, der bis Ende 1943 eine Steigerung von 2,800,000 t/Jahr auf 11,300,000 t/Jahr an Mineraloel insgesamt vorsieht..... Besondere Bedeutung kommt dabei der Herstellung von Flugkraftstoffen, von denen die Schlagkraft der Luftwaffe abhaengig ist, zu." (PE 537). Der Bericht macht dann besondere Vorschlaege zur Verwirklichung des Planes und zieht die Folgerung, dass "Der Bau von Mineraloel-Erzeugungsanlagen ebenso wie z.B. Buna in der Dringlichkeit an allererster Stelle stehen muesse....." (PE 537, S. 3).

(43) Nachdem sich Krauch um die Dringlichkeit des Mineraloelprogrammes und um Buna gekuennert hatte, wandte er sein Augenmerk auf Sprengstoffe, chemische Kampfstoffe und ihre Zwischenprodukte. Am 9. Februar 1939 unterbreitete Krauchs Dienststelle einen Bericht, als geheime Reichssache, ueber die Lage im Sprengstoffgebiet. Ein Studium dieses Dokumentes zeigt das Ausmass der Beteiligung der I.G. und der Dynamit A.G. an diesem Programm. Die Haupt-I.G. Werke sind dort genannt und ihre spezielle Aufgabe wird ganz klar beschrieben. Derselbe Bericht (Seite 8 und folgende) beschreibt die Lage hinsichtlich der chemischen Kampfstoffe, und das Uebergewicht der I. G. in der Planung und in der Verwirklichung dieses Programmes wird wieder klar zum Ausdruck gebracht.

(44) Am 20. Februar 1939 wurde eine weitere Inspektionsreise gemacht um die Lage auf diesem Gebiete zu ueberpruefen und die einzelnen I.G. und DAG Fabriken, die an diesem Programm beteiligt sind, werden erwahnt (PE 609, S. 12 - 15).

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(45) Nach dem Angriff auf die Tschechoslowakei im Herbst 1939 machte Krauchs Dienststelle wieder eine Aufstellung und einen Bericht in Böhmen und Mähren ueber die Ausfuhrung des Schnellplanes, und die besonderen Ziele fuer Pulver, Sprengstoffe und chemische Kampfstoffe wurden auf Grund der Kapazitaeten und Leistungen der Industrie noch einmal ueberprueft. In diesem Bericht von Mai 1939 wurden Einzelheiten fuer die wichtigen Zwischenstufen bei der Ausfuhrung dieses Programmes dargelegt und die I.G.-Werke, die an der Ausfuhrung dieses Programmes beteiligt waren, wurden aufgezahlt. (PE 609, S. 16-25, 32 - 33).

(46) Dieses Dokument erhellt zu einem hohen Grade das Problem, ob Krauch mit der Natur und dem Charakter der Vorbereitungen fuer den Angriffskrieg vertraut war, oder nicht. Am 27. Februar 1939 wurde ein Bericht unterbreitet, von dem Krauchs Stellvertreter, Dr. Ritter, drei Exemplare erhielt (es wurden nur sechs gemacht), mit dem Titel "Studie zur Schaetzung des deutschen Pulver- und Sprengstoff-Aufbauzieles." (PE 609, S. 26 - 31). In diesem Bericht heisst es "Um Unterlagen zu einer Schaetzung zu bekommen, wurden die einzelnen Pulver- und Sprengstoffverbraucher innerhalb der Wehrmacht untersucht. Die Schaetzungen sind auf dem beigefuegten Schaubild aufgezeigt. Die linke Seite des Blattes gibt die Verhaeltnisse auf dem Pulver-, die rechte Seite auf dem Sprengstoffgebiet wieder. Grundsuetzlich wurde so verfahren, dass ein wahrscheinlicher unterer Verbrauchswert in den einzelnen Kurven herausgegriffen wurde (gruene Linien), den jeweils ein herausgegriffener Wert sehr hoher Anforderungen (rote Linien) gegenuebergestellt wurde." 42 Dann folgt eine eingehende mathematische Berechnung der Munitionsmengen, die von den verschiedenen Heeresteilen benoetigt wurden, sowie ueber den Sprengstoffbedarf fuer den Bau des Westwalles, die Marine, die Luftwaffe und fuer die Panzertruppen.

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42 Dieses Schaubild ist Beweisstueck PE 1923.

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Seite 29 dieses Exhibits enthaelt die Schlussfolgerungen, die in Bezug auf die angenommene Mindeststaerke von "zwanzig Korps von Kampftruppen" (ein Korps hat drei Divisionen - siehe Seite 26 oben), und in Bezug auf die Erfordernisse der maximalen Staerke von "dreissig Korps von Kampftruppen", gezogen wurden. Schliesslich wird die Folgerung gezogen: "Es kann grundsatzlich behauptet werden, dass die deutsche chemische Industrie bezueglich der Maschinen und Arbeitsverfahren, um die Grundstoffe herzustellen, eine genuegend hohe Stufe erreicht hat, und dass die Erzeuger von Schiesspulver und Sprengstoffen im Stande sein werden, ihre Aufgaben auszufuehren." (S.30).<sup>43</sup>

(47) Kurz nach dem Erhalt dieses Berichtes vom 27 Februar 1939, beauftragte Krauch seinen Assistenten Dr. Ritter, einen uebersichtlichen Bericht ueber den Fortschritt, der auf Grund des Karinhall-Planes gemacht wurde, auszuarbeiten. Krauch haette diesen Bericht mit dem Generalrat besprechen sollen. (Ritters Aussage, Protokoll 9313). Es wurde am 28 April 1939 ein detaillierter Bericht tatsaechlich ausgearbeitet, welcher sich auf die besprochenen Gebiete bezog und welcher detaillierte Zahlen ueber zusaetzliche Vergroesserungen, um den Bedarf befriedigen zu koennen, enthielt. (PE 455). In Bezug auf mineralische Oele sagte der Bericht folgendes (PE 455, siehe S.27 oben): "Wie dies bereits bemerkt wurde, hat der Mineraloelplan den gesamten Bedarf von Flugzeugtreibstoff fuer die Mobilmachung zu decken und er muss bereits im Frieden die Bevorratung vorsehen. Auf allen uebrigen Gebieten wird die Knappheit sogar noch laenger vorhanden sein, namentlich in Bezug auf Dieseloel und Heizoel. \*\*\* Das Wirtschaftsgebiet von Grossdeutschland ist zu klein, um die kriegswirtschaftlichen Beduerfnisse an Mineraloel zu befriedigen, und die neue und erfolgreich aufgenommene Verbindung mit Suedost-Europa zeigt uns die einzige und Hoffnung erweckende Moeglichkeit, die Versorgung der Mineraloelwirtschaft auf viele Jahre vollkommen zu garantieren, indem dieses Gebiet durch die Wehrmacht sichergestellt wird."<sup>44</sup>

<sup>43</sup> - - - - -  
Vorgl. mit Fussnote 38, s.o.: Krauchs Aussage in Bezug auf Keitel: "Es war durch eine einfache Rechnung festzustellen, wieviel Bomben geworfen werden wuerden, wenn man die Menge der zu liefernden Sprengmittel zur Hilfe nahm usw."

<sup>44</sup> Vergl. mit der diesbezaeuglichen Aussage von Dr. Ritter, Protokoll 9318 9322 und PE 2300, PE 2301.



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(48) Nachdem Krauch Einzelheiten auf den Gebieten des Mineraloeles, Gummi, der Sprengmittel und chemischen Kampfstoffe erwähnt hat, stellte er am Schlusse dieses Berichtes vom 28. April 1938 fest:

"Als am 30. 6. 1938 die Ziele fuer die Erzeugungsteigerung auf den hier besprochenen Gebieten vom Herrn Generalfeldmarschall gesetzt wurden, schien es, als habe die politische Fuehrung die Moeglichkeit, Zeitmass und Umfang der politischen Umwaelzungen in Europa - unter Vermeidung einer Auseinandersetzung mit einer von England gefuehrten Maechtegruppe - allein zu bestimmen. Seit Maerz dieses Jahres ist kein Zweifel mehr moeglich, dass diese Voraussetzung nicht mehr besteht. Der insgeheim schon lange angelegene Wirtschaftskrieg gegen die Antikominternmaechte unter Fuehrung von England, Frankreich und U.S.A. ist jetzt endgueltig eroeffnet; er wird mit der Zeit immer schaarfere Formen annehmen.

Der Fuehrer hat in Wilhelmshaven seinen Willen ausgesprochen, einer solchen zunaechst wirtschaftlichen und politischen, im Endziel aber militaerischen Einkreisung nicht tatenlos zuzuschauen. Aus diesem Entschluss muessen m.E. sofort, auch fuer das Gebiet der Chemie-Wirtschaft, die notwendigen Folgerungen gezogen werden. (PE 455, S. 49)

Sodann folgt eine Eroerterung der politischen Lage und gegenueber den politischen Gruppierungen machte Krauch auf den Gebieten des Mineraloeles, der Buna (kuenstlicher Kautschuk), Leichtmetalle, Schiesspulver, Sprengmittel<sup>45</sup> und chemischen Kampfstoffe bestimmte Vorschlaege. (PE 455, S. 49-52).

45 In Verbindung mit dem Vorstehenden behauptete die Verteidigung, dass die Vorbereitungen fuer einen "Verteidigungskrieg" gegolten haben, und wir verweisen auf die Aussage von Dr. Zahn (Chef der Sprengmittel und chemischen Kampfstoff Stelle des Heeres), welcher den Begriff des Verteidigungskrieges folgendermassen definierte: (Protokoll, englische Seite 11608, deutsche Seite 11711):

F: "Nun, Herr Dr. Zahn, Sie sagten mit Bezug auf den Fabrikationsplan Nr. 63, welcher, wie Sie sagten, 1936 und 1937 gueltig war, dass es ein kurzfristiger Plan war, und dass im Jahre 1938 zusaetzlich zu Fabrikationsplan 63 ein langfristiger Plan einsetzte. Sie sagten auch aus, dass in den Jahren 1938 und 1939 diese Vorbereitung sich als unzureichend erwies fuer einen Mehrfrontenkrieg. Habe ich Sie richtig verstanden, dass das Ihre Aussage ist?

A: Ich habe von Mehrfrontenkrieg ueberhaupt nicht gesprochen. \*\* Ich habe gesagt, jedenfalls war das der Sinn meiner Worte, dass das, was bis dahin erfolgt war, nicht ausreichend fuer einen groesseren Krieg gewesen ist.

F: Was verstehen Sie unter einem "groesseren Krieg"?

A: Ich will damit sagen, dass man mit den kleinen Produktionsmengen, die damals moeglich waren, vielleicht mit einem Gegner wie Polen haette fertig werden koennen, aber nicht mit anderen Gegnern. "

Vergleiche dies mit Krauchs Aussage hinsichtlich seiner Unterredung mit Goering im Juni 1939 ueber die Frage, ob England oder Frankreich zu den Waffen greifen wuerden, falls Polen angegriffen werden sollte. (Protokoll 5142). Goering wusste damals, dass Polen bei der erstbesten Gelegenheit angegriffen werden wuerde. (IMT, Band I, S. 200).

(49) Am 17. August 1939 wurde der Stand der Sprengstoff- und chemischen Kampfstoffindustrie einer letzten Prüfung unterzogen; die Produktion der einzelnen Fabriken wurde überprüft, ebenso diejenige der Fabriken, welche die Zwischenprodukte lieferten, die fuer die Herstellung fertiger Sprengmittel und chemischer Kampfstoffe notwendig waren.

(50) Krauch sagte folgendes aus (PE 4X, S. 13):

"F: Wurde es Ihnen nicht erstmals 1935 augenscheinlich, als die Wehrmacht grosses Interesse an Ihrer Buna zeigte, und spaeter, als Sie 1936 Ihre Arbeit beim Vierjahresplan annahmen, um die chemische Leistungsfähigkeit Deutschlands zu vergrössern, dass sich die Nazi-Regierung auf den Weg zum Kriege befand?

A: Ich hatte das Gefühl, dass sie auf den Krieg losstourten, wie Dr. Bosch es mir im Juni 1938 gesagt hatte, und damals war es, als ich mit Loeb's falschen Zahlen zu Goering ging und ihm sagte: 'Wir koennen keinen Krieg beginnen, denn die Zahlen sind vollkommen falsch. Auf dieser Grundlage werden wir den Krieg verlieren.'

F: Als die falschen Zahlen, die Sie Goering unterbreiteten, in dem Masse korrigiert waren, dass sie den Stand erreichten, den Keitel fruher angenommen hatte, dann muessen Sie geglaubt haben, dass sie auf den Krieg hinausgingen.

A: Heute muss ich sagen: Ja."

(51) In bezug auf den Vierjahresplan sagte er das Folgende (PE 437, S. 18):

"Q: \* \* \* Hatten Sie Gelegenheit, Ihre engen Kollegen in der I.G. Farben ueber die allgemeine Natur, das Gesamtziel Ihrer Arbeit im Vierjahresplan, was Ihr eigentliches Ziel war, zu unterrichten?

A: Das besprach ich mit Geheimrat Schmitz mit Bezug auf die Fernziele des Vierjahresplans. Ich hatte viel mehr ueber den Vierjahresplan betreffende Sachen mit Dr. Bosch gesprochen, waehrend er noch lebte."

(52) Als der auf dem Zeugenstand war, gab Krauch dazu die folgende Erklaerung:

"Wenn ich von 'Fernzielen' gesprochen habe, so waren es naetuerlich Fernziele, die die I.G. direkt angingen; in welchem Ausmass eine vorgesehene Benzinproduktion im Rahmen der I.G., Dunaproduktion im Rahmen der I.G., Methanol, usw. auszubauen und zu vergrössern waren. Ich nehme an, dass durch meine Befragung deutlich zum Ausdruck gebracht wurde, dass ich es vermied, mit I.G.-Leuten ueber Ziele zu sprechen, die andere Firmen hatten, weil ich bestrebt war, meine Objektivitaet zu wahren." (Protokoll 5414.)

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Part II

(53) Die Art und Weise, in welcher die I.G. an der Vorbereitung fuer den Krieg mitgeholfen hat, kann vielleicht am besten durch eine Erklaerung von Funk vom Oktober 1941, (der damals Wirtschaftsminister und Bevollmaechtigter fuer die Kriegswirtschaft war), beleuchtet werden, die dieser damals in Gegenwart von hohen Militaers und Mitgliedern der Regierung, dem Angeklagten Kuehne gegenueber abgegeben hat. Kuehne informierte Schmitz ueber diese Aeusserung wie folgt:

"Zum Schluss seiner laengeren Ausfuehrungen, ueber die ich Ihnen vielleicht noch einmal maendlich berichten kann, sagte Herr Funk folgendes: Er fuehle sich doch gezwungen, auf die Ausfuehrungen von Herrn Fleiger und auf meine Ausfuehrungen zurueckzukommen. Selbstverstaendlich sei Kohle, Eisen, Kanonen und Materialbeschaffung zum Kriege noetig und die Bedeutung der Industrien solle nicht herabgesetzt werden. Eines wolle er aber ausdruuecklich feststellen, ohne die deutsche I.G. und ihre Leistungen haette dieser Krieg nicht gefuehrt werden koennen. Sie koennen sich denken, dass ich Herrn Funk, darueber sehr erfreut, in Namen der ganzen I.G. meinen Dank aussprach." (PE 2064).

(54) Dies stellt die Vorbereitung fuer die wirtschaftliche Mobilmachung fuer den Kriegsfall dar sowie die gesamte Betaetigung der I.G., wie dies durch die offiziellen Berichte erwiesen wird.

(55) Wir wollen nun das Beweismaterial eroertern, das sich auf die einzelnen Spezialgebiete bezieht: (1) Kuenstlicher Treibstoff, (2) kuenstlicher Kautschuk, (3) Leichtmetalle, (4) Sprengmittel, (5) chemische Kampfstoffe, und wir wollen zeigen, auf welche Weise diese Angeklagten durch die I.G. an der Vorbereitung fuer Angriffskriege teilgenommen haben.

B. Kuenstliches Benzin.

(56) The U.S. Strategic Bombing Survey (U.S. Berichte ueber strategische Bombenangriffe, PE 715, Seiten 4, 5 und 13) stellt vom militaerischen Standpunkt aus fest, dass die synthetische Benzin-Industrie das wichtigste Angriffsziel darstellte und zeigt, dass die Verflechtung zwischen den Hydrierprozessen fuer synthetisches Benzin, Kautschuk und Zwischenprodukte fuer Sprengmittel die Anlagen fuer die Erzeugung von kuenstlichem Oel



zu den wichtigsten Angriffsobjekten stempelte.

- ( 57 ) Die allgemeine Beteiligung der Angeklagten an diesem Programm wird in dem vorläufigen Schriftsatz der Anklagebehörde, Teil I, Seiten 35-55 niedergelegt. Es ist lediglich erforderlich, diese Darstellung noch zu ergänzen.
- ( 58 ) Krauch sagte aus ( PE 13, S.3 ): " Im Jahre 1929 und 1930 wurde angesichts der enormen Schwierigkeiten, welche zu dieser Zeit bezüglich der Benzinherzeugung entstanden waren, Leuna fest aufgegeben."
- ( 59 ) Die Kosten fuer die Entwicklung des Hydrierverfahrens waren unerhört hoch und fuehrten zu gewaltigen Barverlusten fuer die I.G. (PE 522, 513, 31). Der erste offizielle Bericht, welcher in den Unterlagen, die sich mit der wirtschaftlichen Mobilmachung fuer den Krieg beschaeftigen, erschien (PE 716, vergleiche Teil II, A, Seiten 4-8), stellt fest:

" Die ausserordentliche Bedeutung der Treibstoffe ergibt sich aus der zunehmenden Motorisierung der Wehrmacht, der zunehmenden und fuer die Zukunft in ihrer Steigerungsmöglichkeit kaum absehbaren Bedeutung der Luftwaffe. .... Unter den gesamten zu beruecksichtigenden Rohstoffen zeichnet sich der Treibstoff weiterhin dadurch aus, dass er fuer die Kriegsfuehrung sofort greifbar vorhanden sein muss. ....  
Fuer die Spezialfliegerbenzine ist die Versorgung vorläufig nur durch Lagerung zu erreichen, die aber bisher erst in verschwindendem Ausmass gelungen ist. .... Praktisch verwirklicht ist bisher die Steigerung der Produktion von Leuna von bisher 100 000 auf zukuenftig insgesamt 300 000 t."

- ( 60 ) Andere offizielle Berichte der Regierung beschreiben die Art und Weise, in der die I.G. sich bei der Ausweitung der Produktion von kuenstlichem Benzin betaetigt hat. Das Amt fuer den Vierjahresplan beschreibt diesen Zeitabschnitt mit folgenden Worten: ( PE 540, S.12)

46      Vergleiche Teil II, A, Seite 1-3. Diese Verflechtung war tatsaechlich in dieser Weise geplant worden. Siehe den Bericht des Generalmajors Loeb in den Vierjahresplan 1930 (PE 534), welcher feststellt: "Zum Schluss sei noch kurz auf die Verflechtung des Mineraloelgebietes mit der modernen chemischen Rohstoffsynthese eingegangen. Der in seinen Gesamtausmassen gewaltige Plan des Aufbaues der deutschen Mineraloelindustrie auf deutscher Rohstoffbasis beginnt bereits, sich befruchtend auf alle verwandten Zweige der chemischen Synthese auszuwirken. Es bahnen sich hier Möglichkeiten zu neuen synthetischen Verfahren an, die auf der Basis der jetzt zur Verfuegung stehenden Zwischenprodukte und Nebenprodukte der Mineraloelsynthesen aufbauen."

" Da fuer die Errichtung von Werken zur Gewinnung von Mineralcel aus Kohle sehr grosse Kapitalmengen notwendig sind, hat es bei einigen Bauvorhaben der letzten Jahre starker Anstoss bedurft, um die Privatindustrie zur Betaetigung in dieser Hinsicht anzuregen. In Zeiten schwacher Regierungsfuehrung musste die Tatsache, dass das auslaendische Cel zu einem weit billigeren Preise jenseits unserer Zollgrenzen zur Verfuegung stand, als es bei uns aus Kohle erzeugt werden konnte, sehr laehmend auf die Initiative unserer Industrie in dieser Richtung wirken. Bekanntlich hat der Fuehrer bereits kurz nach der Machtergreifung auf der Autombilausstellung 1933 den Impuls fuer die Motorisierung Deutschlands gegeben. ( Seite 12) ...  
Am Ende dieser ersten Aufbauperiode der deutschen Treibstoffindustrie muss mit besonderer Anerkennung vermerkt werden, dass an dem Verdienst der Schnelligkeit dieses Aufbaues in starkem Masse die I.G. Farbenindustrie A.G. beteiligt ist." ( Seite 14). .

- ( 61 ) Ein weiterer Bericht einer amtlichen deutschen Stelle, von Generalmajor Ickeb im Jahre 1938, beschreibt die Wichtigkeit von kuenstlichem Benzin fuer die militaerische Mobilmachung und der Teilnahme der I.G. an derselben. ( PE 534). So heisst es in diesem Bericht:

" Im Zuge der weiteren Entwicklung erschien es alsbald als untragbar, dass die Motorisierung in Wehrmacht und Wirtschaft weiterhin in den bisherigen Ausmassen vom Ausland abhaengig bleiben sollte. .... Es gab bei ihrer wirtschaftlichen Loesung so viele Schwierigkeiten, dass sie auf dem bisherigen Wege von der Privatwirtschaft selbst nicht in dem der Dringlichkeit des Problems und den nationalen Lebenserfordernissen entsprechenden Zeitraum haetten bewaeltigt werden koennen. ... Diese ausserordentliche Bedeutung zwang dazu, der Mineralcelwirtschaft im Vierjahresplan einen besonderen Platz zuzuweisen." 47

- ( 62 ) Trotz des Vorstehenden hat die Verteidigung darauf bestanden, dass die Ausweitung des kuenstlichen Benzin-Programmes bloss eine normale Vergruesserung der friedlichen Entwicklung darstellte und dass normale kaufmaennische Erwaegungen fuer die Anteilnahme der I.G. an diesem Programm massgebend gewesen waren. Um dies zu begruenden, hat der Angeklagte

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- 47 Wir haben gezeigt, dass gemass der "Bibel" des Vierjahresplanes, die I.G. 90% des Ausweitungsprogrammes zugeteilt erhielt. Dies enthielt den Ausbau der Fabriken fuer kuenstliches Benzin, und es hatte das Reich die Anlagen finanzieren sollen, obwohl die I.G. und ihre Lizenzinhaber sie betrieben hatten. (PE 427; vgl. Kreuzverhoer des Zeugen Hagert, Fretckell, S. 1463 ff., und Teil II, A, siehe oben, Fussnote 22). Sodann folgt eine technische Diskussion bezueglich der Verbindung zwischen kuenstlichem Cel und der uebrigen chemischen Mobilmachung auf den verwandten Gebieten. ( auf Seite 21-22).

Bueteisch eine Tabelle vorgelegt ( die durch Dr. Hartmann, einem Hilfsverteidiger angefertigt wurde ), die zeigen soll, dass im Jahre 1933, als die I.G. von der Nazi Regierung Garantien erhielt, welche ihr ermoglicht haben, die Erzeugung von kunstlichem Benzin auszuweiten, die Kosten fuer die Erzeugung des kunstlichen Benzins geringer waren als die Anschaffungskosten des Benzins, das aus dem Ausland kam. Die Tabelle, Bueteisch Dokument 181, ( vergl. Aussage Dr. Hartmann, Protokoll, S. 13442-13446 ) zeigt, dass im Jahre 1933 das Benzin aus dem Ausland 26 Pfennig pro Liter kostete, waehrend die Erzeugungskosten fuer das kunstliche Benzin 22 Pfennig betrugen.

- ( 63 ) Durch das Kreuzverhoer wurden diese Kostenziffern in ihre einzelnen Kalkulationsposten zerlegt und es wurde festgestellt, dass, wenn die deutschen Steuern abgezogen wurden, die Kosten fuer das Benzin, das aus dem Ausland bezogen wurde, 6 Pfennige betrugen, waehrend es 22 Pfennige kostete, kunstliches Benzin zu erzeugen. ( Protokoll, S. 13443-13446 ).
- ( 64 ) Die Erzeugung von Methanol ist wichtig, um die Qualitaet des kunstlichen Benzins zu verbessern, und es wird auch fuer Sprengmittel verwendet. ( Vergl. FE 591, Tabelle der Reichsstelle fuer Wirtschaftsausbau ). Die Verteidigung hat in Bezug auf die Erzeugung von Methanol versucht von neuem anzudeuten, dass die ausgeweitete Erzeugung in den Rahmen der normalen friedlichen Betaeetigung fiel, um den zivilen Bedarf der vergruesserten Motorisierung zu decken. Um diese Behauptung zu stuetzen, hat sie Diagramme und Tabellen vorgelegt ( wieder durch Herrn Hilfsverteidiger Dr. Hartmann ), die zeigen, dass die Erzeugung von Methanol fuer den "Motor-Treibstoff" bestimmt war. Im Kreuzverhoer gab der Zeuge zu, dass unter dieser Bezeichnung auch das gesamte Methanol enthalten war, das den Motor-Treibstoff beige-mischt wurde, <sup>welches</sup> fuer die Wehrmacht gebraucht werden war. ( Protokoll, S. 13437, 13442 ). 48

48

Vergleiche FE 523, welches auf die Unterredung zwischen Herren der I.G. und dem Heereswaffenamt Bezug nimmt, und in der betont wurde, dass die Erzeugung von kunstlichem Benzin, Methanol, Schmieroel und verwandten Produkten, fuer die "Motorisierung der Wehrmacht" dringend gebraucht wurde.



(65) Krauchs Duero stellte im Januar 1939 in einem Bericht fest:

"Mineraloel ist fuer die moderne Kriegsfuehrung genau so wichtig wie Flugzeuge, Panzerfahrzeuge, Schiffe, Waffen und Munition. Es muss daher genau so wie jedes andere Kriegsgeraet im Rahmen der gesamten Mob-Vorbereitungen geld- und rohstoffmaessig beruecksichtigt werden."  
(PE 537).49

(66) Krauch hatte am 29. April eine Zusammenstellung ueber die Planung in diesem Sektor vorbereitet und der in Verbindung damit unterbreitete Bericht stellt fest:

"Der Mineraloelplan muss uns - wie schon betont - eine volle Deckung der Flugtreibstoffe im Mobfall bringen und die Bevorratung schon im Frieden erlauben. Auf allen anderen Gebieten besteht ein Fehlbedarf jedoch noch laenger, besonders stark beim Dieselloel und Treibboel . . . \*\*\* Mit anderen Worten gesagt, ist unser Wirtschaftsraum in Grossdeutschland zu klein fuer eine volle Befriedigung der wehrwirtschaftlichen Mineraloelansprueche und der neue so erfolgreich eingeschlagene Weg nach Suedosteuropa zeigt uns die einzige und hoffnungsfreudige Moeglichkeit, durch Einbeziehung eines wehrmachtsmaessig zu sichernden Raumes die Mineraloelwirtschaft auf lange Jahre hinaus voellig zu sichern".  
(PE-455, S.27)50.

(67) Es ist nur noch notwendig, die Aufmerksamkeit auf die Tatsache zu lenken, dass sich die Erzeugung der I.G. an synthetischem Benzin im Jahre 1932 auf 102,000 Tonnen belief. Sie <sup>332,000 to</sup> belief sich i. Jahre 1936 a. <sup>332,000 to</sup> betrug im Jahre 1938 380 000 Tonnen und im Jahre 1939 400 000 Tonnen. (PE 612). Ihre Methanolerzeugung belief sich im Jahre 1932 auf 13 700 Tonnen, erhoehte sich aber im Jahre 1937 auf 140 500 Tonnen. (PE 612)<sup>51</sup>.

(68) Wir muessen uns nur noch einmal auf die Befunde des U.S. Strategic Bombing Survey (U.S. Bericht ueber strategische Bombenangriffe) beziehen um zu zeigen, wie lebensnotwendig die Teilnahme der I.G. an der Mobilmachung fuer den Angriffskrieg dank ihrer Teilnahme an dem Erzeugungsprogramm fuer synthetisches Benzin war.

49 Vergleiche auch PE 400, S.60, wo in der Anwesenheit von Schmitz ein Bericht an Goering wiedergegeben wird, der feststellt: "Die Leunaproduktion ist staerker auf deutsches Oel abgestellt worden.\*\*\* Die Hauptmenge muss indessen aus synthetischer Herstellung kommen." Goering unterstrich unter Bezugnahme auf diesen Bericht: "dass wir im A-Fall u.U. keinen Tropfen Oel aus dem Ausland bekommen. Bei der starken Motorisierung von Heer und Marine haengt von diesem Problem die ganze Kriegsfuehrung ab. Es muessen fuer den A-Fall alle Vorbereitungen getroffen werden, dass die Versorgung des Kriegsheeres sichergestellt ist."

50 Vergleiche Teil II, A, Par. 47.

51 Siehe PE 614 zwecks graphischer Erlaeuterung, die die beschleunigte Produktionssteigerung anzeigt.

(69) Die Taetigkeit der I.G. dauert in diesem Sektor von 1939 bis zum Ende des Krieges. Die Verantwortung dafuer traegt der gesamte Vorstand. Die Angeklagten Krauch, Schmitz, von Knieriem, ter Meer, Schneider, Duetsch, Jachne und Kuehne beteiligten sich auf diesem Gebiete zu verschiedenen Zeiten speziell an besonderen Phasen. Die Verantwortlichkeit dieser Angeklagten bezieht sich auf die Zentralplanung, auf die Planung in den Fabriken, die Ausfuehrung der Plaeue, die sich auf die Ausdehnung der Produktionsmoeglichkeit und der Produktion beziehen, ferner auch auf das Anhaeuften von Vorraten, und zwar sowohl in Planen als auch in der Ausfuehrung. In den Schriftsaetzen, die sich auf die einzelnen Angeklagten beziehen, wird die besondere Rolle, die jeder von ihnen auf seinem Spezialgebiet spielte, auseinandergesetzt worden.

C. SYNTHETISCHER KAUTSCHUK.

(70) Das U.S. Strategic Bombing Survey stellte bei der Diskussion der Bedeutung des synthetischen Kautschuks als militaerisches Ziel fest, dass Deutschland "fuer seinen Bedarf bloss von drei grossen und einer kleinen synthetischen Anlage abhaengig war." (PE 715, siehe oben). Alle diese Anlagen gehoerten der I.G., die in Deutschland der alleinige Erzeuger von synthetischem Gummi war. (PE 658). Der militaerische Apparat Deutschlands war auf diesem Gebiete zur Gaenze von der I.G. abhaengig. (PE 615).

(71) Die Teilnahme der I.G. an der wirtschaftlichen Mobilisierung und Kriegsvorbereitung in diesem Sektor wurde im vorlaeufigen Memorandum und Schriftsatz, I. Teil, S. 35-37 besprochen. Im Jahre 1935 begann die I.G. mit einer Erzeugung von 2000 Tonnen und steigerte sie im Jahre 1937 auf 3500 Tonnen, im Jahre 1938 auf 57 00 Tonnen und im Jahre 1939 auf 22 000 Tonnen. (PE 612) 52.

(72) Am 26. Mai 1936 nahm Schmitz an einer Zusammenkunft der Sachverstaendigenkommission Goerings teil, in der Goering feststellte: "Kautschuk sei unser schwachster Punkt.\*\*\* Es muessen fuer den A-Fall alle Vorbereitungen getroffen werden, dass die Versorgung des Kriegsheeres sichergestellt ist." (PE 400).

52 Vor dem 1. September 1939 sah das Programm Erzeugungskapazitaeten von ueber 100 000 Tonnen jaehrlich vor. Der Termin, an dem die tatsaechliche Produktion den vermehrten Erzeugungsmoeglichkeiten fuer den Mobilisationsbedarf entsprechen sollte, war fuer einen Zeitpunkt nach 1939 angesetzt. Die tatsaechliche Produktion blieb daher hinter dem geplanten Programm zurueck.

Am naechsten Tage, dem 27. Mai, wurde die "Bibel" des Vierjahresplan herausgegeben. Die Steigerung der Erzeugungsmoeglichkeiten fuer synthetischen Kautschuk wurde angegeben und das gesamte Programm der I.G. uebertragen. (PE 428; siehe Teil II, I., oben, Par.30).

(73) Zwei Wochen, nachdem Goering die "Bibel" gebilligt hatte, schrieb ter Meer an Goering und stellte dabei fest: "Wir sind willens, Vertraege oder Lizenzen zu unterschreiben, und zwar jede fuer einen Zeitraum von zehn Jahren, wonach im Rahmen des Vierjahresplanes weitere Buna-Fabriken errichtet werden sollen." Im April 1936 wurde der Grundstein zur ersten Bunafabrik in Schkopau gelegt. Ihre Erzeugungskapazitaet betrug 200 Tonnen monatlich. (PE 95, 547). Bestimmend fuer den Bauplatz waren militaerische Erwaegungen. Die Anlage musste naemlich in einer geschuetzten Zone errichtet werden. (PE 556). Als ter Meer im Juni 1936 seinen Brief an Goering schrieb, diskutierten die Militaerbehoeerden des Reiches mit der I.G. eine Steigerung der Schkopauer Erzeugung von 200 auf 1000 Tonnen im Monat und die I.G. war damit einverstanden, solche zusaetzliche Vorkehrungen zu treffen. (PE 549). Ambros und ter Meer kannten in Juli 1938 die Mobilmachungsplaeene fuer die Erzeugung von synthetischem Kautschuk (PE 1895), denn Ambros schrieb an ter Meer und teilte ihm mit, dass "der Mobilmachungsplan fuer den 1. Juli 1940 eine Bunerzeugung von 100 000 Tonnen jaehrlich und fuer den 1. Juli 1943 eine Erzeugungsfachigkeit von 120 000 Tonnen Buna vorsieht. Man kam daher dahin ueberein, \*\*\* die Kapazitaeten von Schkopau, Huels und Fuerstenfeld zu vergroessern." (PE 1895, oben). Im April 1939, zur Zeit der Invasion Boehmens und Maehrens in der Tschechoslowakei, kam man darin ueberein, dass technische Aenderungen, die eine oekonomische<sup>re</sup> Erzeugung von Buna bezwecken sollten, "aus politischen Gruenden" nicht durchgefuehrt werden konnten. (PE 1571).

(74) Die Verteidigung war derart, dass sie die erhoehrte Ausdehnung der Buna-Kapazitaeten und Erzeugung mit der Versorgung der Friedenswirtschaft erklarte. Sie stellte die Teilnahme der I.G. an dem Programm als zur Gaenze durch privatwirtschaftliche Erwaegungen bestimmt dar. Um diese Verteidigung zu stuetzen wird die Begrueendung vorgebracht, dass



die Nachfrage nach Kautschuk in Friedenszeiten 100 000 Tonnen jährlich betrug und folglich der Plan, die Erzeugungsfähigkeit bis auf diese Ziffer zu erhöhen, keinen militärischen Zusammenhang hatte (Protokoll 6996-7012).

(75) Die gesamten Friedensanfordernisse des Heeres waren im Jahre 1935 auf 50 Tonnen im Monat (600 Tonnen im Jahr) geschätzt worden, (FE 95), doch zeigen die offiziellen Berichte der Regierungsstellen, die sich mit militärischer Planung beschäftigten, dass die Kapazitätssteigerung der I.G. in der Erzeugung von synthetischem Kautschuk mit der verstärkten Nachfrage des Militärs für Mobilisierungszwecke Schritt hielt. So wurde einen Monat nach dem Einmarsch in Österreich, nämlich am 8. April 1938, vom Reichsamt für Wirtschaftsplanung ein Bericht über "die Sicherstellung der Mob-Versorgung durch Bevorratung" vorbereitet (FE 716). Dieser Bericht stellt fest, dass in Bezug auf Kautschuk die neueste Mob-Anforderung mit 65 000 Tons berücksichtigt ist. Die bis vor kurzem genannte Forderung von rd. 102 000 Tons ist z.Zt. verlassen worden. Vom zweiten Mob-Jahr ab heute gerechnet tritt die Erzeugung von Buna bereits sehr merkbar in Erscheinung. (S.5). Drei Monate später, nämlich im Juli 1938, als der neue Heereswirtschaftserzeugungsplan zur Verwirklichung gebracht wurde (FE 442), wurde das Mobilisierungsziel für Kautschuk von 70 000 Tonnen auf 120 000 Tonnen jährlich erhöht und es wurde eine Vergrößerung oder Neubau der Anlagen zwecks Erreichung dieser Anforderungen angegeben. (S.2). Wir haben schon darauf hingewiesen, dass sowohl Jähres wie der Heer zu jener Zeit die neuen Mobilisierungserfordernisse kannten und dass sie die Erweiterung der I.G. Betriebe in Übereinstimmung damit durchführten. (FE 1695) 53.

(76) Die Verteidigung hat auch die Ansicht vertreten, dass im Erweiterungsprogramm nichts Aussergewöhnliches enthalten war, da die I.G. in den Jahren 1925 u. 1926 sehr beträchtliche Kapitalinvestitionen in neuen Anlagen durchführte, und dass der Betrag, den sie im Jahre 1929 investierte so gross war wie

53 der Heer gab zu, dass die geplante Erweiterung zu der Planung für die Mobilisierung in Beziehung stand. (Tr. 7277)

der im Jahre 1938 investierte Betrag. (ter Meer Exh.37, Prot.6813, 6817). Daher schlug sie die Ausgaben der Jahre 1926, 1927 und 1928 als Norm vor, mit der die beschleunigten Investitionen der Jahre nach 1933 verglichen werden sollten.<sup>54</sup> Dr. Struss, der einige dieser Diagramme fuer die Verteidigung vorbereitet hatte, gab im Kreuzverhoer zu, dass 1929 nicht als ein normales Jahr fuer die I.G. betrachtet werden koennte und dass ausserdem die riesigen Auslagen fuer Installationen in den Jahren 1926, 1927 und 1928 sich auf Investitionen in Hochdruckhydrierung von synthetischem Benzin bezogen und daher nicht als Norm fuer die Investitionen der I.G. betrachtet werden koennten. (Protokoll 11298).<sup>55</sup>

(77) Das Beweismaterial ergibt zur Genuege, dass die I.G. in Verbindung mit der wirtschaftlichen Mobilisierung an der Zentralplanung der synthetischen Kautschukindustrie teilnahm (insbesondere Kruech, Schmitz, ter Meer und Ambros), dass der gesamte Vorstand bei der Bestimmung der industriellen Politik das Programm als eine Angelegenheit der I.G. unterstuetzte und dass sich bei der technischen Durchfuehrung insbesondere ter Meer und Ambros als aktiv erwiesen. Die einzelnen Schriftsaetze moegen fuer weitere Beispiele der personlichen Beteilung der Angeklagten eingesehen werden.

54 Siehe Elias Zeugenaussage (Prot.1355), die besagt, dass die enormen Kosten des synthetischen Kautschukprogramms durch keinerlei finanzielle Grundlage gerechtfertigt werden konnten, sondern ausschliesslich durch militaerische Ermogungen.

55 Ter Meer legte in Verbindung mit gerade dieser Art von Verteidigung Diagramme vor, die zeigen, dass der Umsatz, d.h. die Verkaeufe, ausgedrueckt in den empfangenen Geldsummen, im Jahre 1939 u. in Jahre 1929 uebereinstimmte. Dies wird als Argument dafuer benuetzt, dass die Steigerung in der Erzeugung zwischen 1929 u. 1939 in keiner Weise ungewoehnlich war. Das Kreuzverhoer, in das Struss, der diese Diagramme angefertigt hatte, genommen wurde, brachte die Tatsache ans Licht, dass die Produktionssteigerung in der Periode von 1933 bis 1939 erheblich grosser war als die von 1929, wenn die Produktion und nicht der Umsatz und Verkauf als Vergleichsgrundlage genommen wurde. (Prot.11301-11309). Dieser Vergleich bezieht sich auf alle Erzeugnisse ausser die sogen. strategischen Erzeugnisse, die seit 1933 besonders von der I.G. entwickelt worden waren, naemlich synthetischer Gummi, synthetisches Benzin, Leichtmetalle und Kunstfaser, in Bezug auf die ein Vergleich mit 1929 nicht angeschlossen werden konnte. (Prot.11301). Was den technischen Stickstoff anlangt, bei dem die Verteidigung auf Grund des Umsatzes zu zeigen versuchte, dass dieser Umsatz in den Jahren 1939 u. 1939 der gleiche war, so ergab das Kreuzverhoer, dass die Erzeugung im Jahre 1939 tatsaechlich fuehnfmal so gross war als im Jahre 1929. (Prot.11317, 11320).

D. Leichtmetalle.

(78) Auf Seite 38 und 39 des Vorläufigen Memorandums und Schriftsatzes wird auseinandergesetzt, in welchem Ausmasse die I.G. an der wirtschaftlichen Mobilisierung fuer den Kriegsfall auf dem Gebiet der Leichtmetalle teilnahm. Im Jahre 1932 betrug die Magnesiumproduktion der I.G. 1 100 Tonnen. Im Jahre 1936 belief sie sich auf 11 600 Tonnen und im Jahre 1938 auf 13 000 Tonnen. (FE 612)<sup>56</sup> Die Magnesiumproduktion der I.G. machte 88% der gesamten deutschen Magnesiumproduktion aus. (FE 615).

(79) Der einzige I.G. Betrieb, der vor 1933 Magnesium produzierte, war die Fabrik in Bitterfeld. Ihr Leistungspotential betrug 2000 Tonnen. (Prot. 11863, 11864, Zeugenaussage Dr. Pistor, ehemaliges Vorstandsmitglied der I.G., der eine eidesstattliche Erklärung fuer die Verteidigung abgab)<sup>57</sup>. Nachdem Hitler an die Macht kam, wurde die Leistungsfähigkeit Bitterfelds auf 3 500 Tonnen erweitert. (Prot. 11864).<sup>58</sup> Im Jahre 1934 errichtete die I.G. die Fabrik in Alken, die instande war 12 000 Tonnen Magnesium zu erzeugen. (FE 90). Dieser Betrieb war dazu bestimmt, zum Wiederaufbau der deutschen Wehrmacht beizutragen. Der Vorstand billigte seine Errichtung in voller Kenntnis des oben erwachten Zweckes. (Prot. 11868). Im Jahre 1935 wurde die Magnesiumfabrik in Stassfurt mit einer Kapazität von 4200 Tonnen errichtet. (FE 590). Im Jahre 1937 erbaute die I.G. die Fabrik fuer Magnesiumproduktion in Teutschenthal, die die anderen zwei Betriebe mit den zur Erzeugung von Magnesium noetigen Rohmaterialien beliefern sollte. (Prot. 11869). Alle drei Betriebe wurden zum Zwecke der Materiallieferung fuer den Wiederaufbau der deutschen Wehrmacht errichtet und der Vorstand der I.G. stimmte ihrer Errichtung in Kenntnis dieser Tatsache zu. (Prot. 11869).<sup>59</sup>

<sup>56</sup> Siehe die graphische Darstellung in FE 614, die die beschleunigte Erzeugung dieser Produkte wiedergibt.

<sup>57</sup> Bevor die Verteidigung Dr. Pistor in Person vorführte, nannte ihn die Anklagebehörde ein "verstorbenes" Vorstandsmitglied und nicht ein "ehemaliges".

<sup>58</sup> Siehe FE 590 (Seite 14), einen Bericht eines Direktors der I.G., der zeigt, dass es vor Beginn der Wiederaufrüstung "nicht möglich war, die Fabrik in Bitterfeld bei voller Produktion arbeiten zu lassen."

<sup>59</sup> Siehe auch FE 2007, 2008, 2009, 2010 und 2011.



(80) Die Verantwortlichkeit des gesamten Vorstandes auf diesen Sondergebieten liegt offen zu Tage. Insofern, als einzelne Angeklagte zusätzlich an einem besonderen Teil dieses Programms teilnahmen, wird ihrer in den Schriftsätzen fuer die einzelnen Angeklagten Erwähnung getan worden.

E. SPRENGSTOFFE.

(81) Die Tätigkeit auf dem Sprengstoffgebiet ist zweifach:

- (1) die Erzeugung der Zwischenprodukte fuer Sprengstoffe,
- (2) die Erzeugung des Endproduktes.

Die Verteidigung behauptete, dass die I.G. Schiesspulver, Sprengstoffe oder Stoffe fuer die chemische Kriegsfuehrung nicht erzeugte, sondern bloss Zwischenprodukte, die auch fuer friedliche Zwecke verwendet werden. Folglich, so lautet ihre Argumentation, konnte sie von der Verwendung zur Vorbereitung fuer den Krieg nichts wissen, da ihr der Umfang der Produktion auf dem Gebiete von Sprengstoffen und verwandten Produkten nicht bekannt war.<sup>60</sup> Das Beweismaterial zeigt, dass die I.G. sehr wohl wusste, dass ihre Zwischenprodukte an die Sprengstofffirmen gingen.<sup>61</sup> Wegen der Kontrolle, die sie ueber den Hauptproduzenten von Sprengstoffen, die Dynamit A.G. ausuebte, kannte sie die Art und den Umfang der Schiesspulver- und Sprengstoffherzeugung fuer Kriegszwecke.

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60. Vergleiche den Befund des U.S. Strategic Bombing Survey PE 715 oben, Seite 13-a, wo festgestellt wird, dass es nicht noetig war, die Sprengstoffindustrie selbst zu bombardieren, weil das wichtige militaerische Ziel schon erreicht wurde, wenn man sich auf die die Zwischenprodukte erzeugende chemische Industrie als Objekt konzentrierte.

61. Im Einzelschriftsatz ueber den Angeklagten Ambros und in der unterliegenden Angelegenheit fuer die Planung, an der Krauch teilnahm -oben, Teil II, A- wird dieses Gebiet der Erzeugung von Zwischenprodukten ausfuehrlich auseinandergesetzt.

62

I.G. Beziehungen zur Dynamit A.G.

63

(82) Die Tochtergesellschaften der I.G. erzeugten, nach der Aussage des eigenen Sachverständigen der Angeklagten, 86.5% von allem Pulver, das in Deutschland von 1930 bis 1944 verwendet wurde (Aussage Schindler, Chefingenieur der Dynamit A.G., Transcript, englische Seite 12753) und 92% von allen Sprengstoffen, die in dem gleichen Zeitraum in Deutschland gebraucht wurden (Transcript, englische Seite 12717). Als die Verteidigung behauptete, die Einbeziehung der Kriegsjahre in die Zahlen duerfte eine Verzerrung der Tatsachen ergeben, wurde der Zeuge gebeten, die Zahlen fuer das Jahr 1938, das Jahr unmittelbar vor dem Krieg, zu nennen: fuer dieses Jahr setzte er die Erzeugung der I.G.-Tochtergesellschaften mit 100% fuer Pulver (Transcript, englische Seite 12774, 12775) und 82.5% fuer Sprengstoffe (Transcript, englische Seite 12774) an. 64

(83) Man sollte von einer Firma, die so das Feld der Erzeugung von Pulver und Sprengstoffen beherrschte, wirklich nicht die Behauptung erwarten, sie sei ueber Art und Zweck ihrer Arbeit nicht im Bilde gewesen.

Kontrollfaktoren.

(84) Der Angeklagte von Knieriem (in PE 326) gibt die folgenden Hintergruende fuer die Beziehungen zwischen Dynamit A.G. und I.G. an. Waehrend des ersten Weltkrieges waren die Dynamit A.G. (vormals Nobel) und Kooln-Rottweil die beiden Hauptsprengstoff-Gesellschaften in Deutschland. Die erstere spezialisierte sich auf Sprengstoffe und die letztere auf Pulver. Damals waren sie wirtschaftlich eng mit der I.G. verbunden, weil sie von der I.G. hinsichtlich ihres Bedarfs an Stickstofferzeugnissen

62

Alle Unterlagen der DAG in Troisdorf sind vernichtet worden (Transcript, englische Seite 13681).

63

Die Haupt-Tochtergesellschaften, die Sprengstoffe erzeugen, sind die folgenden: DAG (hier oertert), Wolff & Co. (PE 1939, 1935, 391, Seite 54) und Eibia, ein Unterlieferant von Wolff & Co. (PE 391, Seite 54); WASAG und WASAG Chemie, welche 14 Sprengstoffanlagen betrieb und deren Aktienmehrheit im Besitz der I.G. war (PE 43, 666); Deutsche Sprengchemie ihrerseits im Besitz der WASAG und der WASAG Chemie (PE 666); und Verwertchemie (Gesellschaft zur Verwertung Chemischer Erzeugnisse); die zu 100% Eigentum der DAG war und 32 Sprengstoffanlagen betrieb (PE 43, 666).

64

Diese Zahlen liegen etwas hoeher als die Zahlen von Dr. Struss, des Zeugen der Anklagebehoerde (PE 325).

für die Herstellung von Sprengstoffen abhingen. Im Jahre 1926 wurde zwischen I.G. und Dynamit A.G. ein Abkommen getroffen, wonach Kohn-Rottweil ihr Pulverwerk an die Dynamit A.G. verkaufte und die übrige Anlage für die Erzeugung von Kunstseide behielt. Die neugebildete Kohn-Rottweil wurde dann von der I.G. übernommen. Die I.G. erwarb die Aktienmehrheit der Dynamit A.G. und garantierte auf Grund einer Vereinbarung (Interessengemeinschaft, PE 17) die Dividenden der Dynamit A.G., wofür die Bestimmung getroffen wurde, dass "vor Durchführung von Transaktionen, die nicht in den Rahmen ihres (D.G.) normalen Geschäftes fielen, die Zustimmung der I.G. eingeholt werden sollte." Es wurde verlangt, dass die Bilanzen der D.G. "in Übereinstimmung mit den Richtlinien, welche mit Genehmigung der I.G. festzulegen sind, aufgestellt werden sollten (PE 17, oben). Es war der I.G. völlig anheimgestellt "bei einer Verschmelzung alle Aktiva der Dynamit A.G. zu übernehmen." I.G. hatte auch völlig freie Wahl, das Übereinkommen zu beenden und "von der D.G. zu verlangen, dass ihr die..... vorhandenen Liegenschaften, Gebäude, Apparate und Beteiligungen oder der von der I.G. nach freiem Ermessen zu bestimmende Teil dieser Gegenstände zum Buchwert der letzten Bilanz überlassen wird (PE 17, oben; deutsche Seite 4)." In der Generalversammlung der Dynamit A.G. besass die I.G. Stimmmehrheit (PE 50).

(85) Im Jahre 1929 schloss "auf Geheiß der I.G." die Dynamit A.G. einen Garantievertrag mit einer anderen Sprengstoffgesellschaft, nämlich Wolff & Co. I.G. besass 79% der Aktien jener Gesellschaft (PE 1958, Seite 13, Vorstellungen der D.G. in ihrem Gesuch an die Steuerbehörden). Durch diese/letzte/Vereinbarung sagte die D.G., "ist in die Hand unserer Firma das Schicksal der gesamten Pulver- und Sprengstoff-Interessen des I.G.-Konzerns gelegt worden, und so nach dem Willen der I.G. dieses Arbeitsgebiet zum Zwecke einer einheitlichen Leitung als ein in sich geschlossener Teil des Konzerns unserer Firma zugewiesen, im Zusammenhang mit der nach chemisch-technischen Gesichtspunkten vorgenommenen Aufgliederung, derzufolge wir zur Hauptgruppe 3



der I.G. gehören. Leiter dieser Hauptgruppe oder Sparte ist das Mitglied unseres Aufsichtsrates und des Zentralausschusses im Vorstand der I.G., Herr Direktor Dr. Gajowski (PE 1958, englische Seite 13, deutsche Seite 21)

Finanziell:

(86) Die Dynamit A.G. beschreibt selbst ihre finanzielle Abhängigkeit von der I.G. wie folgt:

"Die I.G. verfügt aufgrund ihres Besitzes an Vorzugs- und Stammaktien unserer Gesellschaft über 60.65% der gesamten Stimmen. \* \* \* In unserem Falle (sagte die Dynamit A.G.) ist bei der Prüfung der Frage der finanziellen Abhängigkeit nicht bloss zu berücksichtigen, dass die I.G. über eine nicht unwesentliche Mehrheit, d.h. nahezu 2/3 der Stimmen verfügt, sondern eine finanzielle Beherrschung auch schon durch den Interessengemeinschaftsvertrag vom 17.9.1926 geschaffen ist (PE-1958, Seite 15)." 65

(87) Die von der I.G. ausgeübte finanzielle Kontrolle dehnte sich auf die normale Geschäftstätigkeit der DAG aus, nämlich dadurch, dass die DAG das Einverständnis des Technischen Ausschusses der I.G. für die Erweiterung oder den Bau von neuen Anlagen und Einrichtungen oder für Kauf und Ersatz von Maschinen einholen musste (PE 325, 50). Von Knieriem erklärt: "Wie jedes I.G.-Werk musste die DAG um das Einverständnis des Technischen Ausschusses bitten (PE-326)." Die DAG selbst stellt die tatsächliche Lage wie folgt dar:

"Wir haben zu allen Aufwendungen für Neuanlagen über RM 10.000.— genau so wie andere Betriebe der I.G. die Genehmigung des bei der I.G. gebildeten Technischen Ausschusses "TEA" einzuholen, dem aufgrund seiner besonderen Sachkenntnis auch unser Generaldirektor, Herr Dr. Paul Müller, angehört." (PE 1958, Seite 17, siehe oben.) 66

65

Das Gesuch der DAG, auf welches oben Bezug genommen worden ist und das mit Wissen und Zustimmung der I.G. gemacht wurde (Transcript, englische Seite 6654, von Knieriems Aussage und Protokoll von I.G.'s Rechtsausschuss besagt: "Wir werden appellieren"; und Transcript, englische Seite 2318, Donckers Aussage), betont die Tatsache, dass zusätzlich zu der 60.65%igen Aktienkontrolle seitens der I.G., diese nach der Vereinbarung von 1926 "jederzeit uns gegenüber ihre Absicht zu erklären, unser Vermögen in ganzen durch Fusion zu übernehmen. \* \* \* Diese Bestimmung des Interessengemeinschaftsvertrages stellt also unverkennbar eine erhebliche Stärkung der durch ihre Stimmenmehrheit ohnehin schon gegebenen Beherrschung unserer Gesellschaft durch die I.G. (PE 1958, englische Seite 16, deutsche Seite 26)." 66

66

Anlagen, die vom Reich finanziert wurden, gingen nicht durch den Technischen Ausschuss. Wo DAG-Gelder in Frage kamen, gingen sie durch den TEA (Transcript, englische Seite 1922). Dies war die gleiche Handhabung wie bei den anderen I.G.-Werken.

Organisatorisch

(88) "Organisatorisch war die DAG eingegliedert in die I.G. durch ihre Einordnung in Sparte III d.h. in derselben Weise, als ob sie ein I.G.-Betrieb gewesen wäre. Dr. Gajowski, als Leiter der Sparte III, hatte das Recht und die Pflicht gegenüber dem I.G.-Vorstand, die technische Entwicklung der DAG zu überwachen und konnte zu diesem Zweck Untersuchungen bei der DAG anordnen (PE 326, siehe auch PE 50, deutsche Seite 2)." In Wirklichkeit erfolgte die Vorlage der Kreditanträge der DAG an den Technischen Ausschuss der I.G. durch Sparte III, trotzdem Dr. Müller der DAG ein Mitglied des TEL war. 68

(89) Die weitere organisatorische Oberaufsicht wird von der DAG wie folgt beschrieben:

"In der ersten Generalversammlung nach Abschluss des Interessengemeinschaftsvertrages wurden zwei Vorstandsmitglieder der I.G., die Herren Geheimrat Professor Dr. Busch und Geheimrat Dr. Schmitz, in unseren Aufsichtsrat gewählt. Anstelle des in den Ruhestand getretenen Herrn Direktor Bern wurde im Jahre 1931 Herr Dr. Pungs als technisches Vorstandsmitglied von der I.G. zu uns entsandt. Im Jahre 1937 übernahm Herr Geheimrat Dr. Schmitz, der 1935 Vorsitzender des Vorstandes der I.G. geworden war, den Vorsitz in unserem Aufsichtsrat, nachdem bereits im Jahre 1936 ein weiteres Vorstandsmitglied der I.G. und zwar der bereits in Ziffer I 1 erwähnte Leiter der für unser Fabrikationsgebiet zuständigen Hauptgruppe 3, Herr Dr. Gajowski, in unseren Aufsichtsrat gewählt worden war." (PE 1958, Seite 27/28.)

In ihrem Gesuch (PE 1958, auf Seite 20-23) bringt die DAG die einzelnen Tatsachen bezüglich der organisatorischen Beziehungen vor.

Dr. Schmidt, Mitglied des DAG-Vorstandes, sagt wie folgt aus:

"Frage: Ist es nicht Tatsache, dass der Grund, weshalb Dr. Müller die Kreditanträge von Dynamit A.G. bei dem TEL selbst einreichte, statt über Sparte 3 -- ist nicht der Grund der, dass I.G.-Farben und Dr. Gajowski dachten, dass es verwaltungstechnisch einfacher wäre, dass Dr. Müller diese, statt über Sparte 3, persönlich bei dem TEL einreichte?

Antwort: Es war ja nicht so, dass Herr Dr. Müller die Kredite persönlich dem TEL übergab. So war es nicht. Die DAG reichte die Kreditanträge ein über die Sparte 3 an TEL. Das war ein paar Wochen vor der Sitzung. Wenn dann die TEL-Sitzung kam, z.B. in Frankfurt, fuhr Dr. Müller nach Frankfurt zu der Sitzung und wenn dann in TEL besprochen wurde, ob der Kredit nötig wäre, ob das Geld von uns ausgegeben werden sollte, dann vertrat Dr. Müller persönlich diesen Antrag. Er reichte also die Kredite nicht persönlich ein, er vertrat sie aber, er begründete sie persönlich in TEL. Eingereicht wurden sie durch die DAG." (Transcript, englische Seite 13108-13110; Protokoll, deutsche Seite 13312-13313.)

"Andererseits ist unser Generaldirektor, Herr Dr. Paul Mueller, seit 1938 Mitglied des Aufsichtsrates der I.G., gehort aber noch dem von Vorstand der I.G. gebildeten Technischen Ausschuss und Kaufmannischen Ausschuss der I.G. an. Weitere Herren unseres Vorstandes und unseres Direktoriums sind von der I.G. in die bei ihr bestehenden technischen, kaufmannischen und wissenschaftlichen Fachkommissionen berufen worden. \* \* \* 69  
"Die gesamte buchhalterische Organisation wurde, vor allem soweit es zur Durchfuhrung der Gewinnabfuhrungs-Vereinbarungen usw. erforderlich war, derjenigen der I.G. angepasst und unsere gesamte Geschaftefuhrung der Uebornachung der fur die eigenen Betriebe der I.G. zustandigen Stelle (Zentralausschuss, Technischer Ausschuss, Kaufmannischer Ausschuss, Spartenleitung) unterworfen." (PE 1958, Seite 27/28.)

(90) Die Verteidigung hat geltend gemacht, dass der organisatorische Aufbau, der die Dynamit A.G. der Sparte III unterstellte, lediglich eine Formsache war und behauptet, dass die Dynamit A.G. tatsachlich ihre Unabhaengigkeit gegenuber Sparte III behielt. 70  
Um dies zu begrunden, stuetzt sie sich auf das sogenannte "Gentleman's agreement", das angeblich zwischen Bosch von der I.G. und Dr. Mueller von der D&G getroffen wurde, wobei Dr. Mueller von Bosch gesagt wurde, dass er Gajowskis Weisung nicht unterworfen sei. Doncker, der Leiter von I.G.'s Buchhaltungsabteilung sagte aus, dass er niemals von einer solchen Vereinbarung gehort hatte (Transcript, englische Seite 2325). Der Zeuge der Verteidigung Schmidt, Vorstandsmitglied der Dynamit A.G., erklarte, er hatte um 1929 herum von Dr. Mueller erfahren, dass eine Unterordnung bei Bosch stattgefunden habe, wobei Mueller und Gajowski anwesend waren und dass Mueller Bosch gefragt habe, ob Gajowski sein Chef sei und Bosch habe geantwortet: "Nein". (Transcript, englische Seite 13090-13101.) Diese Unterordnung

69

Mueller war ein Schwager des Angeklagten Schmitz (PE 326).  
Im August 1937, als die I.G. den kaufmannischen Ausschuss ins Leben rief, schrieb von Schnitzler an Bosch, dass er ihn auf Vorschlag von Schmitz uber den Zweck und das Tun des Kaufmannischen Ausschusses unterrichte. Im Verlauf dieser Ausfuhrungen sagte von Schnitzler: "Im September werden wir auch mit Dr. Paul Mueller wegen der Weise wie wir die Sprengstoffbelange in unseren Kreis miteinbeziehen sollen, Fuchlung nehmen." (PE 361.) Eine bedeutungsvolle Sitzung des T&A in Juni 1943, wo alle technischen Leute der 3 Sparten anwesend waren, um zu besprechen, welche Schritte bezuglich der Verlagerung von Fertigung aus Anlagen im Kampfgebiet zu unternehmen seien, zeigt, dass Mueller als Vertreter der D&G in T&A angesehen wurde, denn das Protokoll zeigt seine Anwesenheit wie folgt: "Sprengstoffe - Pulver Gruppe: Mueller." (PE 678.)

70

Unserer Ansicht nach ist die Streitfrage nicht, ob D&G unabhagig von Sparte III sondern ob sie von der I.G. unabhagig war.



ist die Quelle, auf welche die Verteidigung als Beweis der Unabhaengigkeit der DAG hinweist. Keine schriftliche Abmachung, Anweisungen oder Richtlinien wurden ausgegeben. 71 (Transcript, englische Seite 13100-13101.)

(91) Was die Verteidigung nach unserer Meinung uebersieht, ist die Tatsache, dass selbst bei einer Annahme ihrer Version dieses "Uebereinkommen" nichts weiter als eine interne Angelegenheit bedeutete und zwar, welche Personen innerhalb der I.G. Vollmacht auf besonderen Gebieten ausueben sollten. Es zeigt nicht die Unabhaengigkeit der DAG von I.G. Im Gegenteil, gerade die Tatsache, dass die DAG zur I.G. gehen musste, um Entscheid bezueglich der betreffenden Befugnisbereiche von Mueller und Gajewski zu erbitten, zeigt klar, dass der "Chef" die I.G. war. Alles, was es im besten Falle bedeutet, ist, dass Mueller bei der I.G. auf die gleiche Stufe mit Gajewski gestellt wurde. Aber ueber das reine Argument hinaus verneint schon die Aussage des Verteidigungszeugen Schmidt, Vorstandsmitglied der DAG, die Behauptung, dass die DAG von der I.G. unabhaengig gewesen sei. 72

71

Knieriem sagt, er habe gehoert, dass dieses "Gentleman's agreement" nur fuer Mueller persoenlich galt "solange Mueller Vorstandspraesident der Dynamit A.G. war (PE 326)", aber es war nicht einmal an das Amt als solches "gebunden".

72

Schmidt von der DAG sagte aus (Transcript, englische Seite 13102; Protokoll, deutsche Seite 13307):

"Frage: Aber die betreffenden Zustaendigungsbescheide, die wie Sie sagen, Bosch zwischen Gajewski und Dr. Mueller festlegte, hingen doch voellig vom Belieben Boschs ab; stimmt das nicht?

Antwort: Jawohl.

Frage: Verstehe ich Ihre Aussage nun richtig, dass die I.G.-Farben nach dieser Besprechung zwischen Bosch, Mueller und Gajewski in Jahre 1929 keinen Einfluss auf die Geschaeft der Dynamit-A.G. ausuebte? Geht Ihre Aussage dahin?

Antwort: Dass die I.G. keinen Einfluss gehabt haette? Nein, natuerlich nicht. Das bezog sich doch nur auf die Geschaeftsfuehrung innerhalb der DAG selbst. Das sollte doch nicht etwa besagen, dass die I.G. keinen Einfluss gehabt haette auf die Geschaeftsfuehrung der DAG.

Frage: Verstehe ich Ihre Aussage richtig, dass die I.G.-Farben sogar nach diesem Abkommen vom Jahre 1929, von dem Sie sprachen, immer noch Einfluss auf die Geschaeft der Dynamit-A.G. ausuebte?

Antwort: Jawohl."

(92) Trotz des Vorausgegangenen betonte die Verteidigung die Tatsache, dass es keine technische "Beaufsichtigung" gegeben habe. Der Gebrauch des Ausdruckes "Beaufsichtigung" ist irreführend. Die D.G. war der gleichen technischen Beaufsichtigung unterworfen, welche durch den T.E. und K. ausgeübt wurde, wie jede andere Anlage oder Abteilung der I.G. Die Befugnis Huellers auf dem technischen Erzeugungsgebiet der D.G. findet ihre Quelle darin, dass die I.G. diese Befugnis lieber ihm als Gajowski uebertrug. Sie war nicht verschieden von der Befugnis, die den Werksleitern von Louna, Schkopau und Huels auf ihren technischen Gebieten gegeben war. 73

(93) Krauch erklarte (PE 338, auf Seite 2): "Abgesehen von der gesetzlichen Verantwortung, kann man behaupten, dass der Vorstand tatsaechlich Kenntnis von dem Betrieb der Fabriken hatte, die er unmittelbar von der Werksleitung oder durch Sparten, T.E. oder K. erhielt."

(94) Hueller vortrat als Mitglied von I.G.'s T.E. und K. die D.G. Es wurde keinen Zweck gehabt haben, ihn in diesen wichtigen I.G.-ausschuessen zu haben, wenn die D.G. "unabhaengig" gewesen waere, wie die Verteidigung behauptet. 74

73  
Siche Aussage Bucofisch (Transcript, englische Seite 8612-8614) bezueglich der von Vorstand ausgeuebten "technischen Beaufsichtigung"; behandelt in Bucofischs Schriftsatz bezueglich seiner persoenlichen Verantwortung. Viele der groesseren I.G.-Anlagen waren in Besitz von Tochtergesellschaften und wurden von ihnen betrieben und nicht unmittelbar von der I.G. So gehoerten die Louna-Werke der Tochtergesellschaft, Ammoniakwerk Hirschburg. Sein Kapital war groesser als das der D.G., indem Hirschburg 287.000.000 (PE 51) und D.G. 47.000.000 (PE 1953) besass. Der erste Vertrag mit dem Reich von Dezember 1933 hinsichtlich der Ausweitung der Erzeugung von synthetischem Benzin wurde von Hirschburg und nicht von der I.G. unterzeichnet (PE 92). Schkopau gehoerte einer getrennten Tochtergesellschaft (die Danawerke) mit einem Stammkapital von 20.000.000 (PE 550). Huels wurde auch unter einer Tochtergesellschaft errichtet (Danawerke Huels) (PE 347).

74  
Als von Schnitzler zunaechst Besch davon verstaendigte, dass Hueller zu einem Mitglied des K. gemacht werden sollte, brachte er das in dieser Weise vor: "Wir sollten die Belange der Sprengstoffe in unseren Kreis miteinbeziehen (PE 361)." Siche auch das Protokoll des Kaufmaennischen Ausschusses, welches jenen Ausschuss neu bildete, worin berichtet wird, dass: "Dr. Paul Hueller zu den Sitzungen des Kaufmaennischen Ausschusses als Vertreter der Gruppe Sprengstoffe einzuladen sei (PE 362, auf Seite 2)."

Wirtschaftlich

(95) Die Dynamit A.G. war "bezuglich Nitrate von der I.G. abhaengig". (PE 325) Sie hatte eine beherrschende Stellung in der Erzeugung von Zwischenprodukten fuer Sprengstoffe. Die fuer die Erzeugung von Sprengstoffen und Pulver wesentlichen Zwischenprodukte, welche von der I.G. hergestellt wurden, sind in der oidesstattlichen Erklarung von Dr. Struss aufgefuehrt, PE 325, oben. 76

(96) Wir werden besondere Faelle aufzeigen, wo nach dem Datum dieses angeblichen Abkommens die Taetigkeit der DAG doch noch 77 der Freigabe und der Zustimmung seitens der I.G. unterworfen war.

75

In PE 1958, auf Seite 18-20, bringt die DAG in einzelnen die Tatsachen vor, welche aufzeigen, dass sie wirtschaftlich von der I.G. abhaengig ist und wir verweisen auf die tatsaechlichen Vorstellungen, die dort erhoben worden sind, um unsere Stellung hier zu stuetzen.

76

DAG selbst stellt die Lage wie folgt dar (PE 1958, Seite 19):

"\* \* \* Wir benoetigen von den Stickstoff-Erzeugnissen der I.G. fuer unsere Betriebe in grossen Mengen Ammoniak, Salpetersaure, Harnstoffe usw., von den anorganischen Chemikalien der I.G. u.a. Chlorate, Schwefel, Schwefelsaure, Salzsaeure, Sauer- und Wasserstoff und von den anorganischen Chemikalien vor allem Glycerin, Glykol, Toluol und Collodiumwolle. Auch eine grosse Zahl anderer Produkte aus sonstigen Erzeugungsgobielen der I.G. bildet eine wesentliche Grundlage fuer das uns in Rahmen des I.G.-Konzerns zugewiesene Fabrikationsgebiet. In besonderem Masse trifft dies fuer das in engster wissenschaftlicher, technischer und kaufmaennischer Zusammenarbeit mit Werken der I.G. entwickelte Kunststoffgebiet zu." (PE-1958, Seite 24.)

Diese Vorstellungen der DAG wurden von den Steuerbehoerden mit den folgenden Worten als voellig stichhaltig befunden (PE 1958, englische Seite 46, 47, deutsche Seite 81):

"Die von der Dynamit A.G. benoetigten Rohstoffe wurden zum gressten Teil von der I.G. gestellt und geliefert. Diese Rohstoffe bildeten eine wesentliche Grundlage fuer das der Dynamit A.G. im Rahmen des I.G.-Konzerns zugewiesene Fabrikationsgebiet."

Vergleiche auch den Bericht des Reichsamtes fuer wehrwirtschaftliche Planung, PE 1817 und PE 610, welcher die Lieferungen von der I.G. an die DAG behandelt und die Besprechung im Teil II, A, Paragraph 27, 49 und Fussnote 79, post.

77

Die DAG koennte keine ihrer Werke vorlagern, ohne das Einverstaendnis der I.G. einzuholen (Transcript, englische Seite 13103-13105). Noch im Jahre 1937 koennte sie keine neue Anlage errichten, ohne vorher das Einverstaendnis der I.G. zu erlangen (Transcript, englische Seite 13105). Siehe auch die Vorstellungen der DAG in Paragraph 87, oben.



( 97 ) Am 22. Oktober 1935 teilte Dr. Mueller von der D/G Gajewski streng vertraulich mit, dass die D/G " seitens des Reichskriegsministerium aufgefordert worden sind, einen Plan fuer den Bedarf an Chemikern, Ingenieuren, Angestellten, Arbeitern etc. fuer die Inbetriebnahme der verschiedenen Bereitschaftsanlagen im Mobilmachungsfalle vorzulegen. \*\*\* Es kommen in Betracht 3 Bereitschaftsanlagen fuer die Herstellung von Trinitrotoluol. " ( NI-13532 ). Nach Benennung der einzelnen Bereitschaftsanlagen, fuehrt Mueller in seinem Brief an Gajewski aus:

" Andererseits wird man im Mobilmachungsfalle damit rechnen muessen, dass sowohl Toluol als auch Benzol fuer privatwirtschaftliche Zwecke, also auch zur Herstellung von Mon- und Diniterverbindungen, als Ausgangsstoffe fuer die verschiedensten chemischen Erzeugnisse nicht, oder nur in sehr beschaenkttem Umfange zur Verfuegung gestellt werden. 79 Ich koennte mir daher vorstellen, dass ein Teil der Chemiker, die zurzeit sich mit der Herstellung von Mon- und Diniterverbindungen auf den I.G.-Werken befassen, im Mobilmachungsfalle frei wird. \*\*\* So moechte ich anregen, festzustellen, welche Herren aus den I.G.-Werken an die Bereitschafts-Trinitrotoluolanlagen abgegeben werden koennen. \*\*\* Des weiteren muesste eine Einarbeitung in die Verfahren, wie sie fuer die Herstellung von Monnitrotoluol, Diniteroluol und Trinitrotoluol, sowie auch die Reinigung des Re-trinitrotoluols bei uns vorgesehen sind, in Aussicht genommen werden \*\*\* waehrend es uns noch an 2 Chemikern fuer eine Pikrinsaeure-Herstellungsanlage fehlt."

78 Vergleiche bezueglich der zeitlichen Abstimmung das IMT Urteil, Band I, Seite 184: " Am 10. Maerz 1935 verkuenndete Goering, dass Deutschland eine Luftwaffe aufbaue. Sechs Tage spaeter, am 16. Maerz 1935 wurde ein Gesetz erlassen, \*\*\* das die Militaerdienstpflicht einfuehrte und die Aufstellung des deutschen Heeres in einer Friedensstaerke von 500.000 Mann festlegte. \*\*\* kuendigte die Regierung am 21. Mai 1935 an, dass Deutschland, trotz der Aufkuendigung der Abruestungsklauseln des Versailler Vertrages dennoch seine territorialen Begrenzungen achten werde. \*\*\* Am 7. Maerz 1936 marschierten deutsche Truppen in Missachtung jenes Vertrages in die entmilitarisierte Zone des Rheinlandes ein."

79 Vergleiche PE 1817, den Bericht des Reichsamtes fuer wehrwirtschaftliche Planung, welcher anzeigt, dass nach diesem Brief das Schwergewicht der Trinitrotoluol-Erzeugung bei den drei von Mueller im Brief erwaehten Werken der D/G lag. Monnitrotoluol wurde als Basis fuer die Herstellung von Trinitrotoluol verwendet. ( PE 1817, auf Seite 3 ). Die Herstellung von Monnitrotoluol in Deutschland erfolgte durch I.G. Werke und in diesem Bericht heisst es: " Bei... Erzeugung von ..Monnitrotoluol entfallen auf die Trinitrotoluolfabrikation also rund 90% ( im Jahre 1936 ). \*\*\* verbrauchten die Sprengstofffabriken rund 95% der Inlandware. " ( cp. cit. Seite 4 ). Dieser Bericht zeigt wiederum, dass die Trinitrotoluol-Erzeugung 1937 um 77.4% gegenueber den fruheren Jahren zunahm und dass 4 von den 5 Werken, welche dieses TNT erzeugten, D/G Werke waren, 3 davon sind in dem Brief Dr. Muellers an Gajewski erwaeht ( cp. cit. Seite 4, 5 ). Dieses Dokument PE 1817 zeigt im Einzelnen die Werke und die besonderen Sprengstoffe, die in den Jahren 1936 und 1937 erzeugt wurden und beweist, dass sie alle von der D/G oder I.G. Werken erzeugt wurden.

Dr. Mueller schliesst diesen Brief indem er sagt:

" Meine Bitte an Sie geht nun dahin, festzustellen, ob fuer die Trinitroclucil-Bereitschaftsanlagen und fuer die eine Anlage zur Herstellung von Pikrinsaeure geeignete Herren der I.G. im Mobilmachungsfalle uns zur Verfuegung gestellt werden koennen. Ich darf Sie bitten, die ganzen Fragen streng vertraulich zu behandeln, und auch den Stellen, mit denen Sie Verbindung aufnehmen, die gleiche strenge Vertraulichkeit aufzuerlegen." ( PE 1936 ). 80

( 98 ) Im Dezember 1935 schrieb Mueller von der DAG an die I.G. in Hoechst, indem er ausfuehrte:

" Ich kann Ihnen nicht sagen, wie erfreut ich bin, feststellen zu duerfen, dass die seinerzeit zwischen uns angebahnte engere Zusammenarbeit auf dem Sprengstoffgebiet zu solch schoenen Ergebnissen gefuehrt hat. Ich moechte nicht verfehlen, Ihnen Kenntnis zu geben von einem Absatz eines Briefes des Oberbefehlshabers des Heeres, ... dieser lautet wie folgt: 'Abteilung I des Heereswaffenamtes Pruefwesen beglueckwuenscht die DAG, dass sie durch ihre enge Zusammenarbeit mit der I.G. und Wa. Prw. nunmehr in die Lage versetzt worden ist, die beiden modernen Sprengstoffe Trinitrobenzol und Hexogen herzustellen und im Interesse der Landesverteidigung weiter zu entwickeln.' Ich beglueckwuensche Sie auch zu den neuen Verfahren der synthetischen Herstellung von Glycerin. Ich sehe mit einem geradezu ungeduldigen Interesse dem Ergebnis der nunmehr eingeleiteten Versuche entgegen." ( PE 111, Seite 1 )

( 99 ) Die weitere Verflechtung zwischen DAG, I.G. und ihren Tochtergesellschaften auf dem Gebiet der Sprengstoffe ergibt sich aus einem Brief vom September 1936 der Firma Wolff & Co., einer anderen Tochtergesellschaft der I.G., an Gajewski, Schmitz und Dr. Mueller der DAG, in welchem sie von Besprechungen unterrichtet werden, die man ( Wolff & Co.) wegen des Baues einer Pulverfabrik mit dem Kriegsministerium gefuehrt hatte. ( PE 1939 ).

( 100 ) Als die Vermittlungsstelle W im Maerz 1937 ihre Anweisungen an die I.G. Werke herausgab, welche sich mit " den wirtschaftlichen Mobilmachungsarbeiten der I.G. Werke befasste", war die Dynamit A.G. als eine von I.G.s Werken mit aufgefuehrt, fuer welche die Mobilmachungsmassnahmen in Frage kamen. ( PE 1329 ).

( 101 ) Im 13. Maerz 1937 schrieb Mueller von der DAG an Gajewski und an den Angeklagten Wurster, wobei er sich ueber einen Brief beschwerte, den Wurster an die Reichsgruppe Chemie geschrieben hatte und fuehrt dabei aus:

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80 Zur Zeit der Muenchener Konferenz stellte Mueller ein aehnliches Ersuchen an die I.G.: " Waehrend der Spannungszeit sei Dir. Dr. Mueller ( DAG ) bei ihm erschienen und haette angeroegt, die I.G. solle in Mobil-Falle einen Teil derjenigen Arbeiter, die in der I.G. in Nitrier- und aehnlichen Betrieben beschaeftigt waren, an die DAG abgeben." ( PE 604 ).

\*/nicht erreicht werden oder

"Das Heereswaffenamt hat uns die strikte Auflage gemacht, dass wir ihm laufend melden, wenn die vorgeschriebenen Fortigungen \*/gefahrdet erscheinen. Hiervon haben wir auch mehrfach den zuständigen I.G.-Stellen Mitteilung gemacht, sodass diese von unserer Verpflichtung dem Heereswaffenamt gegenüber voll unterrichtet waren..... Ich muss, sehr geehrter Herr Dr. Wurster, auch noch Stellung nehmen zu einem Satz in Ihrem Rundschreiben an die in Betracht kommenden Stellen, darin von Ihrer Seite zum Ausdruck gebracht wird, dass der grosse Verbrauch der Werke der D.A.G. Ihnen ueberhaupt nicht gemeldet worden sei. Die Verhaeltnisse liegen in Wirklichkeit so, dass von unserer Abteilung Einkauf den uns als massgeblich bezeichneten Stellen - naemlich I.G.Verkaufsgemeinschaft Berlin und Leverkusen - regelmassig fuer den in Betracht kommenden Verbrauchsmonat vorher rechtzeitig Meldung ueber unseren feststehenden Bedarf gemacht worden ist." (PE-1940, Seite 4.)

Dr. Wurster antwortete, wie folgt:

"Es ist richtig, dass Ihre Einkaufsabteilung uns jeweils einen Monat vorher den Bedarf Ihrer Werke gemeldet hat. Bei dem unerwartet hohen Zuwachs Ihres Bedarfes war damit natuerlich nichts geholfen, denn wir haben erwartet, dass Sie uns Ihren Bedarf mindestens ein Jahr vorher anmelden, damit wir entsprechende Massnahmen in unseren SO<sub>3</sub>-Fabriken treffen konnten. \* \* \* Wenn Sie den Bedarf nicht anmelden konnten, dann liegt auch hier eine mangelnde Synchronisierung der Inbetriebnahme der Anlagen fuer Fertigprodukte und der Anlagen fuer die benoetigten Vorprodukte vor." (PE-1940.)

81

(102) Im August des Jahres 1938 sprach der Angeklagte Krauch zu den Angeklagten Schmitz wegen der Fluessigmachung von 16.000.000.-RM fuer die DAG waehrend der drei Monate August, September und Oktober 1938, um die neuen Bauprojekte der DAG zu finanzieren. Schmitz fuhrte durch die Hausbank der I.G., die Laenderbank, die Finanzierung durch. (PE 1938.)

(103) Im August 1938, als der Angeklagte Krauch an dem Karinhall-Plan arbeitete und die Erzeugungs-Kapazitaeten sowie Programme fuer Schiesspulver und Sprengstoffe festlegte, hat der Chefingenieur der Dynamit A.G., Schindler, mit Krauch und Herren des Heereswaffenamtes den Plan besprochen (Schindlers Aussage, Protokoll, Seite 12738). Krauch hat selbst ueber die Besprechungen ausgesagt, die er mit Goering zur Zeit, als der Karinhall-Plan entstand, gefuehrt hatte und behauptete, dass das sogenannte Hindenburg Programm, das die Erzeugung von Schiesspulver und Sprengmitteln zum Ziele hatte,

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81

Man beachte, dass der Zeitpunkt unmittelbar vor der Muenchner Krise lag.



und welches die grösste Erzeugungsmenge darstellte, die Deutschland in ersten Weltkrieg erreicht hatte, damals nicht erreicht wurde, und er sagte ferner aus:

"Jaeph, Goering hatte ich geantwortet, dass die Ansicht von Keitel, dass das Hindenburgprogramm in der Produktion erreicht wurde, meiner Meinung nach in keiner Weise zutreffend sei, da mir sonst die Abrufe der Stickstoffindustrie, die ja die Hauptproduktion der Pulver- und Sprengstoffherstellung zu liefern hatte, die Salpetersäure, in ganz anderem Ausmass bekannt sein muessten. \* \* \* Ich liess mir die Zahlen von der Stickstoffindustrie geben, die die jährlichen Lieferungen an die Pulver- und Sprengstoffabriken wiedergeben."

(104) Er sagte auch aus, dass er Goering damals mitgeteilt hatte, dass: "Zun Mitte des Jahres 1938 selbst zu der Ueberzeugung gekommen war, dass der Ausbau der Pulver- und Sprengstoff-Kapazität absolut hinter den Ausbau der anderen Rüstung, also Schaffung von Artillerie, Panzern, usw., Schiffen, zurueckstand, sodass damals von Seiten des Waffenamtes ein Plan gemacht wurde, zur Beschleunigung der Pulver- und Sprengstoffproduktion, der vom Waffenamt den Namen 'Schnellplan' erhielt." (Protokoll Seite 5115.)

(105) Am 24. September 1938 sandte Dynamit A.G. einen Bericht an den Angeklagten Schmitz, welcher die Ziffern des Umsatzes der Dynamit A.G. auf dem Gebiet der militärischen Sprengstoffe enthielt, und dieser Bericht stellte fest:

"Unsere Lieferungen an das Militär, von denen wir in allgemeinen nicht sprechen durfen, sind in den Umsatzzahlen auch enthalten. Ohne diese Zahlen wurde der Bericht ein vollkommen falsches Bild ergeben." (PE 2159, Aussage Schmitz, Vorstandsmitglied der DAG, Protokoll Seite 13326.) 82

82

Der Zeuge der Verteidigung, Dr. Schmidt, Vorstandsmitglied der DAG, sagte aus, dass die DAG an die I.G. vierteljährlich Berichte sandte, welche die Mengenangaben der militärischen Sprengstoffe enthielten (Transcript Seite 13116) und die in der folgenden Feststellung gipfelten:

"F: Ist es also richtig, zu sagen, dass die Vierteljahresberichte, die die Umsatzzahlen ueber die Verkäufe an militärischen Explosivstoffen enthielten, von der Dynamit A.G. vom Jahre 1934 an bis Kriegsende ununterbrochen gesandt wurden? Ist das eine richtige Feststellung?

A: Ich glaube ja." (Protokoll Seite 13322.)

Die TEM verwortete diese Berichte in Tabellen und Diagrammen und zeigte den Umsatz an militärischen Explosivmitteln in diesen Tabellen an. (PE 1941, 1942, 2341, 2344, 2311, 2314; Transcript 11332-11333.) Siehe auch PE 1958, Seite 20, auf welcher die DAG sagt: "Die Geheimhaltungsverpflichtung nach Par. 88 des Strafgesetzbuches besteht in gleicher Weise wie bei unserer Firma auch bei den einzelnen Werken der I.G. \* \* \* Die Massnahmen unserer Firma im Rüstungsgeschäft moegen die Sprengstoffe, Munition oder Kunststoffe betreffen, sind daher durchaus denjenigen gleichzusetzen, welche von blossen Betriebsabteilungen der I.G. getroffen werden."

(106) Dr. Mueller teilte im Oktober 1938 Gajowski mit, dass die DAG sich weigerte, das Risiko fuer die Errichtung der Hexogenfabrik in Bobingen zu uebernehmen, und dass die DAG das Heereswaffenamt ueberzeugt hat, die Fabrik auf deren Kosten zu bauen, wobei jedoch die DAG die Ingenieure, Unternehmer und Leiter der Fabrik waeren. Es wurde geboten, dass ter Hoer hievon verstaendigt werde (PE 1937). Der Angeklagte Gajowski und Mueller von der DAG besprachen einen Monat spaeter, im November 1938, die Probleme in Bezug auf die Errichtung und den Betrieb der Hexogenfabriken in Bobingen (PE 1937, Seite 2).<sup>83</sup> Damals arbeitete Ambros mit der Sprengstoffirma WASAG auf dem Gebiete des Hexogen und im November 1938 schrieb er Krauch bezueglich dieser Zusammenarbeit und ersuchte ihn, ihm in dieser Angelegenheit seine weitere Unterstuetzung zu gewaehren (PE 2330).

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(107) Dynamit A.G. ersuchte selbst im Jahre 1940 den Angeklagten Gajowski um dessen Einverstaendnis in Bezug auf den Einsatz von Arbeitskraefte zwischen DAG und Rottweil. Die Protokolle der Sitzungen, die sich auf die Probleme der Nitrozellulose erzeugenden Fabriken der DAG bezogen, wurden an Gajowski zur Bevilligung unterbreitet, und die Kapazitaeten und die Erzeugung der einzelnen DAG Fabriken, welche diese Materialien erzeugten, wurden in Einzelheiten beschrieben (PE 1937, Seite 5 - 7)<sup>85</sup>.

83

Dieses Schriftstueck bezieht sich auch auf die Kapazitaet der beiden Fabriken, welche fuer die Erzeugung von Hexogen errichtet worden: Dieses Schriftstueck enthaelt auch die weitere, interessante Angabe, dass die DAG und die I.G. sich noch nicht entschlossen haben, ob die Verwertchemie (Gesellschaft zur Verwertung Chemischer Erzeugnisse), eine Tochtergesellschaft der DAG, mit der Leitung der beiden Hexogenfabriken betraut werden soll. Wir ersuchen darum, dass diese Tatsache, gegenueber den wiederholten Behauptungen der Verteidigung, dass sie nie etwas von der Verwertchemie gehoert haben, in Erwaeung gezogen wird.

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Mueller von der DAG beschwerte sich in einem Brief an die I.G. im April 1940 wegen eines bestimmten Geschaeftsabschlusses mit den folgenden Worten: "Die DAG ist praktisch ein Stueck der I.G., und ich glaube deshalb, dass doch wirklich keine Bedenken bestehen sollten, die angefragten Zahlen aufzugeben. \* \* \* Tragen Sie Bedenken, meiner Firma offiziell die Zahlen bekanntzugeben, so koennten sie mir vielleicht in meiner Eigenschaft als Mitglied des Aufsichtsrates der I.G. mitgeteilt werden." (PE 327.)

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Man beachte das bemerkenswerte Gestaendnis der DAG: "Da fuer die I.G.-Werke auch Troisdorf die Stelle ist; der ssaentliche Lieferplan und Verrechnungsunterlagen zugehen, ist m.E. einzig und allein Troisdorf die Stelle, welche die Verteilung der Schiessbaumwolle in Zusammenhang mit dem Art vornehmen kann."

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Der Angeklagte Ambros berichtete am Anfang des Jahres 1940 ueber seine Inspektion der DAG-Fabrik und ueber die Zusammenarbeit von I.G.-Ingenieuren und der DAG auf dem Gebiete der Hexagen Erzeugung. Er gibt an, dass die DAG sich um die Zustimmung der I.G.-Ingenieure zu den technischen Problemen, die sich ergeben haben, bemuht habe (PE 1937, Seite 3, 4).<sup>86</sup>

(108) Wir haben uns auf das Appellationsgesuch bezogen, welches von der DAG, in Zusammenarbeit mit der I.G., an die Steuerbehoerden gerichtet wurde und in dem sie die tatsächlichen Feststellungen machten, dass "nicht bestritten werden kann, dass die Abhaengigkeit unserer Gesellschaft von der I.G.-Farbenindustrie Aktiengesellschaft, Frankfurt/Main, in finanzieller, wirtschaftlicher und organisatorischer Hinsicht nicht bloss, wie von der Reichsfinanzverwaltung auf Grund mehrfacher Buchpruefungen anerkannt, in der Zeit von 1.1.1927 bis 30.11.1938 bestand, sondern auch im Dezember 1938 in vollen Umfange gegeben war und heute (November 1940) noch gegeben ist und deshalb unsere Gesellschaft nach wie vor als Organ der I.G. betrachtet werden muss." (PE 1958, Seite 11.)

(109) Diese Appellationsgesuche sind als tatsächliche Gestaendnisse bedeutungsvoll. Aber abgesehen von solchen Gestaendnissen wurde auch die Entscheidung der obersten deutschen Steuerbehoerden, welche besagt, dass die DAG von der I.G. abhaengig war (PE 1958, oben, Seite 44), auf Grund von angefochtenen Fragen des Tatbestandes getroffen, nachdem die DAG die Fragen gestellt hatte, ob:

"nach dem Gesamtbild der tatsächlichen Verhaeltnisse finanziell, wirtschaftlich und organisatorisch in ein anderes Unternehmen eingegliedert ist (I.G.). \* \* \* eine Gesellschaft, die als Glied eines anderen Unternehmens anerkannt werden soll, ein Handeln auf eigene Rechnung und Gefahr in Innenverhaeltnis ausgeschlossen sein und ein persönliches Unterordnungsverhaeltnis in der Weise bestehen, dass sie in den geschaeftlichen Angelegenheiten grundsätzlich - mit dem etwaigen Vorbehalt einer ihr moeglicherweise zugestandenem gewissen Bewegungsfreiheit - den Weisungen der Obergesellschaft zu folgen hat, also eine Art blosser Geschäftsabteilung des uebergeordneten Unternehmens darstellt. Das Vorliegen dieser Voraussetzung ist nach den in unseren bisherigen Schriftsaetzen eingehend geschilderten tatsächlichen Verhaeltnissen gegenueber der I.G. in vollen Umfange erfuellt und wird in der Anfechtungsentscheidung zu Unrecht bestritten (PE 1958, oben, s. Seite 14, DAGs Appellationsgesuch)."

86

Schindler, der Chefingenieur der Dynamit A.G., sagte aus, dass er mit Ambros, sowohl vor wie auch nach dem Krieg, Geschaeft hatte, und zwar in Verbindung mit "gewissen Rohmaterialien und Zwischenprodukten, wie z.B. Hexamethylen, Tetramen und Formaldehyd, welche von der I.G. geliefert wurden \* \* \* und auch in Verbindung mit dem Bau von Fabriken, welche der Erzeugung jener Produkte dienen sollten." (Transcript Seite 12356, 12351.)



( 11a ) Jede einzelne Schilderung, welche jetzt von der Verteidigung gemacht wird, steht im Gegensatz zu den tatsächlichen Behauptungen, welche die DAG den höchsten Steuerbehörden unterbreitet hat. 87. Die Entscheidung der höchsten Steuerbehörde in jenem Verfahren, welches die Probleme des strittigen Tatbestandes betrifft, beantwortet die Behauptungen, die jetzt von der I.G. gemacht werden, in einer vollständigen Weise. ( PE 1958 oben, S. 44-46 ).

( 111 ) Die Verteidigung hat wiederholt angegeben, dass es in diesem Tatbestand dieses Umsatzsteuerverfahrens etwas gäbe, das die Zirkende der DAG und die Entscheidung der Steuerbehörden auf jenen besonderen Rechtsfall beschränken würde. Ein Vergleich mit unseren eigenen Verkaufssteuergesetzen wird zeigen, dass diese Behauptungen keine Beachtung verdienen. Die Umsatzsteuer entspricht genau unserer Verkaufssteuer, nämlich, dass durch den Verkauf von einer Person an eine andere ein steuerpflichtiger Vorgang entstanden ist. Falls jedoch die Verbindung zwischen dem Verkäufer und dem Käufer so eng ist, dass angenommen werden kann, dass der Verkäufer und Käufer eine und dieselbe Person ist, so entsteht natürlich kein steuerpflichtiger Vorgang, weil die beiden Einheiten, welche fuer den Handel notwendig waren, eben nicht bestehen. Was die DAG in diesem Rechtsstreit behauptete, war, dass wenn es Material an die I.G. verkaufte und wenn umgekehrt die I.G. an die DAG Waren verkaufte, zwischen dem Käufer und dem Käufer die Einheit einer "juristischen Person" bestand, die ausreichte, um die Folgerung, dass ein Verkauf stattgefunden habe, zunichte zu machen. Die Entscheidung des Steuergerichtes in diesem Falle bedeutet, dass die Geschäfte zwischen der DAG und der I.G. dieselben waren, wie ein Geschäft zwischen zwei Abteilungen der I.G. Ein solches Urteil, insbesondere zum Nachteil der fiskalischen Einkünfte der deutschen Regierung, konnte nur auf Grund von sehr überzeugenden Beweisen, dass die DAG nicht mehr als eine Abteilung der I.G. war, gefällt werden.

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87 Von Kriemord ordnete an, dass alle Vorstandsmitglieder wegen der Wichtigkeit des Urteils schriftlich von demselben verstaendigt werden sollten. ( PE 1944 ). Siehe auch Freckell 6656, in dem die Strafen fuer beabsichtigte falsche Angaben enthalten sind.

TOCHTERGESELLSCHAFTEN

Verwertchemie ( Gesellschaft zur Verwertung Chemischer Erzeugnisse

( 112 ) Die Verwertchemie war eine Tochtergesellschaft der Dynamit A.G., die vollständig ihr gehörte. ( Aussage von Schmidt von der D.G., Protokoll S. 13122, 13125, 13682 ). Die Leiter der Verwertchemie waren "bloss Beamte der Dynamit A.G." ( Protokoll 13125 ) und die Angestellten der Verwertchemie waren dieselben, wie die der D.G. ( PE 666 ). Schindler, der Chefingenieur der Dynamit A.G., war auch der Chefingenieur der Verwertchemie und ihr Geschäftsführer. ( Protokoll S. 12348, 12347 ). Alle Unterlagen der Verwertchemie waren in demselben Gebäude wie die der Dynamit A.G. untergebracht und wurden zusammen mit den D.G. Dokumenten vernichtet. ( Protokoll, S. 13682 ). 88

( 113 ) Die zweiunddreissig Fabriken der Verwertchemie, welche Sprengstoffe erzeugten, werden in der Tabelle PE 48 angezeigt. Wie mit Einzelheiten versehenen Berichte der Rechnungsprüfer ueber die Geschäfte der Dynamit A.G. und ihrer Tochtergesellschaft, der Verwertchemie, wurden an die Herren der I.G. gesandt, unter denen sich Bosch, Gajewski, das TRA-Bureau und die Zentralfinanzabteilung befanden. ( PE 2311, Protokoll, S. 13692 ). Der Bericht des Rechnungsrevisors ueber die D.G. ( fuer das Jahr, das am 31 Dezember 1938 endete ), enthielt eine Aufzählung der einzelnen Fabriken der D.G. ( Protokoll, S. 13697 ) die besondere Art von Sprengstoff, den sie erzeugten, wie auch die Angabe dass es sich um militärische Sprengstoffe handelte. ( PE 1816, S. 11, Protokoll 13698 ). 89

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88 Diese Beweisunterlagen wurden in den Akten der I.G. gefunden.

89 PE 1816, auf Seite 11, stellt fest: " Ausserdem werden die folgenden Fabriken von der Gesellschaft zur Verwertung Chemischer Erzeugnisse m.b.H., deren Gesellschaftskapital vollständig im Besitze der DAG ist, betrieben, und zwar als Treuhänder der Verwertungsgesellschaft fuer Montan-industrie G.m.b.H., Berlin :

Dornitz	beginnend mit dem 1. April 1936
Guessen	beginnend mit dem 1. Juli 1938
Hessisch-Lichtenau	beginnend mit dem 1. Juni 1938
Clausthal-Zellerfeld	beginnend mit dem 1. Januar, bzw. 1. April 1939.
Ueckermünde	beginnend mit dem 1. Januar, bzw. 1. April 1939

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Der Bericht enthielt auch die Angaben, ob es sich um zivile oder militärische Sprengstoffe handelte. (Protokoll, S. 13699-13706). 90

( 114 ) Sobald die Zentralbuchhaltung der I.G. diese Berichte der Rechnungsprüfer über die Tätigkeit der Dynamit A.G. und der Verwertchemie erhalten hatte, wurden sie an Bosch, Gajewski, TEL-Bureau, Zentralfinanzverwaltung und nach dem Jahre 1938 an Schmitz weitergegeben. ( PE 1816 ).

( 115 ) Ausser den erwähnten Berichten der Rechnungsprüfer, welche die Art und den Umfang der Geschäfte der D.G. und der Verwertchemie auf dem zivilen und militärischen Sprengstoff-Gebiet beschrieben, wurden vierteljährlich Berichte, welche die Umsatzziffern enthielten, von der D.G. an die I.G. eingeschickt, und diese Ziffern enthielten die Einzelheiten des Umsatzes der Verwertchemie. ( PE 2313, Protokoll, S. 11332 ). Der Vorstand erhielt diese Berichte über den Umsatz. ( Protokoll, S. 11332 ).

( 116 ) Im November 1938 besprachen Gajewski und Mueller die Frage der Errichtung und des Betriebes der Hexogenfabriken in Bellingen. ( PE 1937, S. 2 ). Ein Brief der I.G. an die D.G., der auf diese Besprechung Bezug nimmt, enthält die folgende Bemerkung :

" Beide Anlagen, sowohl die 100 Mtc-Versuchsanlage als auch die 400 Mtc-Grossanlage, bauen wir ( Technischer Ausschuss der Sparte III von I.G. Farben ) von Bellingen aus als Bauunternehmer fuer Sie bzw. fuer das Heereswaffenamt. Alle Bestellungen laufen unter dem Namen der D.G. Bei der Grossanlage ist noch nicht ganz klar, ob nicht evtl. sogar die Gesellschaft zur Verwertung chemischer Erzeugnisse auch als Bauherrin auftritt." ( PE-1937, Seite 4 ). 91

90 Schindler, der Chefingenieur der Dynamit A.G., versuchte in seiner Aussage das Mass von D.G.'s Erzeugung von militärischen Sprengstoffen herabzusetzen und betonte, dass ihr Gebiet sich auf "zivile" Sprengstoffe erstreckte. In Kreuzverhör hat er zugeben müssen, dass die Sprengmittel und das Schiesspulver, die von der Luftwaffe, von den Picnicern und beim Bau des Westwalls benutzt wurden, in seiner Einteilung nicht als "militärische Sprengstoffe" bezeichnet waren. ( Protokoll, S. 12727; vergl. PE 609, S. 26-30 ).

91 Die D.G. hat die Verwertchemie als ihre Unterlieferantin fuer die Erzeugung von Sprengstoffen eigens ins Leben gerufen. Der grundlegende Pachtvertrag zwischen der Verwertchemie und Montan vom 23. Mai 1939 ( der in den Akten der I.G. gefunden wurde und von den Herren Dr. Mueller und Dr. Schmidt der D.G. als Direktoren der Verwertchemie unterzeichnet ist ) stellt fest: Dynamit A.G. hat im Auftrage und im Namen des Oberkommandos des Heeres die folgenden Fabriken mit den dazugehörigen Tochterbetrieben erbaut oder eingerichtet." Dann folgen die Namen von fuerf Fabriken mit der Angabe des besonderen Sprengstoffes, den jede von ihnen erzeugte. Dies sind dieselben Fabriken, welche in dem Bericht des Rechnungsprüfers, der fuer das Jahr 1938 der I.G. unterbreitet wurde, enthalten sind. ( S. oben, Fussnote 89, PE 675 ). Verwertchemie teilte an die I.G. auch mit, wieviel Angestellte sie beschäftigte und deren Anwachsen von Jahr zu Jahr. ( Protokoll, S. 13122 ).



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( 117 ) In einer Besprechung zwischen Schmidt von der D.G. und Herren der I.G. im Januar 1939 teilte er ihnen alles ueber die Verwertchemie und das Ausmass ihrer Arbeit in den militaerischen Sprengstofffabriken, welche vom Reich erbaut worden waren, mit. ( Protokoll, S. 13125, PE 353 ). Er gab zu, dass die D.G. schon im Jahre 1937 die I.G. ueber die Taetigkeit der Verwertchemie unterrichtet hatte. ( Protokoll, S. 13126 ). Die D.G. garantierte die Einhaltung der Vertraege, die zwischen der Verwertchemie und dem Heer abgeschlossen worden waren, im Mai 1939 mit den folgenden Worten: " Es wird dafuer garantiert, dass die Taetigkeit der Verwertchemie ausschliesslich auf die Erzeugung fuer das Oberkommando des Heeres beschraenkt wird. " ( PE 674 ). 93

( 118 ) Als im August 1939 Krauchs Amtsstelle und das Heereswaffenamt ueber den Zustand der Sprengstofffabriken und das Verhaeltnis zu ihren Lieferanten noch einen letzten Ueberblick machten, zeigt dieser Bericht das Ausmass der unmittelbaren Geschaeftsbeziehungen zwischen den Fabriken der Verwertchemie, die in dieser Liste aufgezuehlt sind, und den I.G. Fabriken, welche die Salpeter- und Schwefelsaeure lieferten, die fuer die Erzeugung der Sprengstoffe unbedingt notwendig waren. ( PE 610, 2060, 2061 ). 94 Vor dem 1. September 1939 besass Montan 37 chemische Fabriken. Von diesen waren 36 von der I.G. und ihren Tochtergesellschaften erbaut und betrieben worden ( obwohl sie durch Montan finanziert wurden ). Fuer den Friedensbedarf an Sprengstoffen haetten allerhoechstens 20 Fabriken ausgereicht, ( PE 690 ), und der friedensmaessige Bedarf bezog sich auf ein Heer von 1,300,000 Mann ( Protokoll, S. 2333-2336 ).

WASAG und WASAG Chemie.

( 119 ) WASAG und WASAG Chemie waren mehr eine direkte Tochtergesellschaft der I.G. als die der Dynamit A.G. ( PE 666 ). Sie betrieb 14 Sprengstofffabriken. ( PE 48 ). Die WASAG hatte bereits im November 1934

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- 92 I.G. ordnete damals an, dass die Geschaeftsgebarung der Verwertchemie ueberprueft werden sollte. Die Rechnungspruefung wurde fertiggestellt und an Farben eingesandt. ( PE 1816 ).
- 93 Man moege beachten, dass, obwohl die Unterlagen in den Bureaus der D.G. in Treisdorf vernichtet wurden, diese Dokumente in den Akten der I.G. aufgefunden wurden.
- 94 Zwischen der I.G. und der Verwertchemie wurden beachtenswerte Geschaeftsbeziehungen abgeschlossen, welche zu betruechtlichen Verrechnungen fuehrten. ( PE 2341 ).

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mit dem Hoereswaffenamt einen Vertrag fuer die Errichtung einer Fabrik " fuer die Herstellung von Nitroglycerin und pulverisiertem Nitroglycerin" abgeschlossen. Der Vertrag sah auch vor, dass statt Nitroglycerin, Nitrodiglykol benutzt werden konnte. ( PE 600 ).

( 120 ) Ambros und ter Meer wussten im Jahre 1935 von dem Taetigkeitsbereich der WASAG auf dem Gebiete von militaerischen Sprengstoffen ( PE 107 ) und sie nahmen an den Forschungsarbeiten fuer die Verwendung von Diglykol als Grundlage fuer Sprengstoffe und Hexogen teil. ( PE 121 ). 95 Ambros wusste, dass die Diglykol-Erzeugung der I.G. fuer die WASAG Sprengmittelfabriken bestimmt war. ( PE 1937, oben ). Krauch wusste von der Zusammenarbeit von Ambros mit der WASAG. ( PE 1937, S.3 und PE 2330 ).

( 121 ) Im Januar 1939 besprachen die Herren der I.G. mit der DAG die Abmachungen, die mit Montan getroffen worden waren und die auch die WASAG mit einschlossen. ( PE 353 ).

Deutsche Sprengchemie

( 122 ) Deutsche Sprengchemie war eine vollstaendig der WASAG und der WASAG Chemie gehoerende Tochtergesellschaft ( PE 666 ) und betrieb Sprengstofffabriken. ( PE 48 ). Ihre Taetigkeit war " ausschliesslich auf die Aufgaben des Reichskriegsministeriums beschraenkt." ( PE 600, S. 5 ).

( 123 ) Die WASAG und die WASAG Chemie garantierten im November 1937 der deutschen Armee, dass alle Vertraege, welche die Deutsche Sprengchemie mit den Militaerbehorden abgeschlossen hatte, eingehalten werden wuerden. ( PE 600 oben ).

( 124 ) Als die Herren der I.G. die Abmachungen mit der Montan besprachen, die auch die DAG und WASAG betrafen, beruecksichtigten sie auch die Vereinbarungen mit der Deutschen Sprengchemie. ( PE 353 ).

( 125 ) Die vorstehende Beschreibung, welche sich auf die DAG bezieht, beweist, dass der gesamte Vorstand durch die TEA und KA (an deren Sitzungen Dr. Mueller von der DAG teilnahm ) von deren Beitrag zur Ausruestung der Nazi Militaermaschine wusste, und dass sie ueber die DAG eine ebensolche Aufsicht ausuebte wie ueber die anderen I.G. Abteilungen.

95 PE 2060, 2061 zeigen, dass Zwischenprodukte von der I.G. an die WASAG Fabriken in Elsnig und Reinsdorf geliefert wurden, und auch an die Fabriken der Deutschen Sprengchemie.

Verschiedene Verbandsmitglieder standen im Zusammenhang mit technischen Fragen, die Zwischenprodukte und deren Gebrauch fuer Schiesspulver und Sprengstoffe betrafen, mit der DAG in besonderen Beziehungen. Es waren dies Krauch, Schmitz, Gajewski, Ambros, von Knieriem, ter Meer, Buetefisch, Schneider, Oster und Wurster. Finanzielle Fragen und vertragliche Verpflichtungen, die DAG betreffend, wurden von Schmitz, Gajewski und von Knieriem geklaert.

F. CHEMISCHE KAMPFSTOFFE

( 126 ) Im Vorlaeufigen Memorandum und Schriftsatz der Anklagebehörde, Teil I, Seite 39-41, wird das Beweismaterial, das sich auf die Teilnahme der I.G. auf dem Gebiete der chemischen Kampfstoffe bezieht, dargelegt. Es zeigt sich, dass in der technischen Anwendung eine Verzahnung zwischen den Vorprodukten, die zur Erzeugung von Sprengstoffen und jenen, die zur Erzeugung von chemischen Kampfstoffen benoetigt werden, besteht und dass fuer Produktionszwecke und fuer Zwecke der Erweiterung von Anlagen die betreffenden Spezialprodukte, je nach den wechselnden Erfordernissen, sowohl fuer Sprengstoffe als auch fuer chemische Kampfstoffe verwendet werden koennten. ( PE 591, Tafel: Reichsamt )

( 127 ) In Teil II A wird der Umfang der Planung von 1935-1939 in dem Werkabschnitt, in dem Krauch und Ambros beschaeftigt waren, angegeben. Weiter findet sich im Einzelschriftsatz ueber den Angeklagten Ambros eine bis ins Detail gehende Besprechung seiner persoenlichen Teilnahme sowohl an der Planung, als auch an der Durchfuehrung des Programmes in diesem Werkabschnitt.

( 128 ) Die Vorbereitungen der I.G. beginnen im Jahre 1935 mit ihrer Zusammenarbeit mit Orgasid im Betrieb Ammendorf, wo Giftgas erzeugt werden sollte. ( PE 351 ). Im Jahre 1936 wurde Wittwer zum Rohstoffamt entsandt, um ein Programm fuer die Erzeugung von Lest auszuarbeiten. ( PE 1918 ). Im Jahre 1937 wirkte die I.G. unter anderem bei der Planung der Gendorf ( Trostberg ) Fabrik fuer Giftgas mit, wohl wissend, dass es im Kriegsfall angewandt werden sollte. ( PE 598, vergleiche Protokoll 11471 ). Im Jahre 1938 teilte die I.G. dem Oberkommando mit, dass sie "die Planung des gesamten Abschnittes"



der chemischen Kampfstoffe ( PE 597) auf sich genommen und ihre Anlagen entsprechend erweitert habe. ( PE 268 ). Im Jahre 1939 wurden besondere Massnahmen getroffen, um die Ausfuhrung des Programms zu beschleunigen. ( PE 609, 634).

( 129 ) Die Verteidigung hat sich stets auf den mangelnden Bereitschaftszustand am 1. September 1939, betrachtet von dem Gesichtspunkt der tatsächlichen Erzeugung chemischer Kampfstoffe, bezogen. Ihr Argument ging dahin, dass nicht einmal der Gedanke an einen Angriffskrieg aufkommen konnte, weil die Produktion der I.G. zum damaligen Zeitpunkt unzureichend gewesen sei. 96

( 130 ) Die Tatsache der Planung ist zur Gaeuze sichergestellt. Auf die Planung folgte die Durchfuhrung. Im Mai 1938 liess die I.G. das Oberkommando des Heeres wissen, dass die I.G. die Verantwortung fuer die Erzeugung von Diglykol und Uxyl trage und dass "wir nunmehr fuer die Gesamtplanung dieses Werkschnittes schnellstens die Bauzeichnungen fuer die Veresterungsanlage, D-I- Anlage und die dazu notwendigen Vorratslager benoetigen." ( PE 2318 ). Zur gleichen Zeit, im Mai 1938, wurde Dr. Wittwer, der Assistent von Ambros, zum Verbindungsmann zwischen der I.G. und dem Oberkommando des Heeres fuer die Planung und Ausfuhrung des Sektors fuer chemische Kriegsfuhrung bestellt. ( PE 2318 ). Als Krauch im folgenden Monat, im Juli 1938, mit der Hilfe und Unterstuetzung von Ambros den beschleunigten Erzeugungsplan ( PE 438 ) in diesem Abschnitt vorbereitete, sah der Plan "die aeusserste Beschleunigung aller Bauverhaben, einschliesslich der Vorprodukte, in diesen Sektoren vor. \* \* \* Der Plan fuer Schiesspulver und Sprengstoffe kann Mitte 1941 erfuehrt werden, der Plan fuer chemische Kampfstoffe Anfang 1942." ( PE 442,439 ).

( 131 ) Im Zusammenhang mit der Planung und der Ausfuhrung des Planes vor dem 1. September, liefert das Beweismaterial auch den Bolog dafuer, dass die I.G. in diesem Sektor die Hauptforschungsarbeit durchfuehrte und

96

Siehe indessen die Zeugenaussage Dr. Zahn, des Leiters der Heereswaffenabteilung fuer Sprengstoffe und chemische Sprengstoffe, der bezeugt, dass damals genuegende Mengen erzeugt werden waren, um "mit einem Feind wie Polen fertig zu werden, aber nicht mit anderen Feinden." ( Protokoll 11608 ).

dass sie ein Monopol in der Erzeugung der in diesem Abschnitt benötigten Vorprodukte besass. Ambros wurde befragt, ob vor dem 1. September 1939 ein Druck auf die I.G. ausgeübt worden war und antwortete: (Protokoll 8102):

" Die I.G.-Farben-Industrie hatte fuer bestimmte Giftgase die Vorproduktenchemie abzugeben, wie z.B. Ammerdorf von Methylol bis Thiodiglykol. Als spaeter dann der N-Lost kam, hatte die I.G.-Farben-Industrie das entsprechende Mustard-N-Lost zu machen. Als spaeter dann die Projekte kamen, Gendurf, Huels, und man das Analogon zum Mustard Gas dort machen musste, hatte die I.G.-Farben-Industrie ihr Verfahren wiederum dazuzugeben. Da sie dafuer nie Lizenzen bekam, nie eine EntschaeDIGung bekam, sondern ihr Koennen hergab, ist das ja ein Ausdruck dafuer, dass irgend jemand es befohlen hat." 97

( 132 ) Sie uebte, dank ihrer technischen Erfahrung in der Konstruktion von Anlagen fuer die Erzeugung von Giftgasen und ihrer beherrschenden Stellung auf dem Gebiete der fuer Giftgas erforderlichen Vorprodukte, eine Kontrolle ueber die Entwicklung in diesem Abschnitt aus. (PE 2319, Protokoll 11608). S: beschreibt das Protokoll einer Konferenz im Februar 1939 die Stellungnahme der I.G. in der Sache folgendermassen: ( PE 2319)

" Aber auch vom Standpunkt der I.G. erscheint es zweckmaessig, in dieser Form sich auf dem K-Stoffgebiet zu beteiligen: 1) Bei Eintritt in die Orgacid bekommt die I.G. Einblick und Einfluss in diese Anlagen, als: z.B. auch wieder in Ammerdorf. Es kann nichts gebaut oder betrieben werden ohne Kenntnis der I.G. 2) Durch Erteilung des Bauauftrages fuer neue Anlagen an die Orgacid kann die I.G. im Interesse des Reiches ihre Erfahrungen zur Verfuegung stellen, ohne mit der Gesamtaufuehrung beauftragt zu werden. Die ganzen behoeordlichen, bautechnischen etc. Fragen werden von der Orgacid bearbeitet, die I.G. uebernimmt nur Konstruktion und evtl. Montage gewisser, sie interessierender Anlagen.

97 Vergleiche die Zeugenaussage Dr. Zahn, Heereswaffenamt, Protokoll 11474-11482, worin er unter anderem feststellte:

- " F. Nun, als Sie ueber die Tatsache sprachen, dass I.G. Farben nicht mit dem Heereswaffenamt auf dem Gebiete der chemischen Kampfstoffe zusammenarbeitete, trifft es nicht zu, dass vor dem 1. September 1939 das Heereswaffenamt keine Macht hatte, eine Firma dazu zu zwingen, irgendein Produkt herzustellen, oder ihre Anlagen zu verbessern, um ein Produkt herzustellen? Ist das nicht eine Tatsache? \*\*\*
- A. Ich soll mich dazu aussern, ob wir Mittel hatten, die Firma zu zwingen, in damaliger Zeit das zu tun, was wir wollten?\*\*\* Ich kann mir nicht vorstellen, welches Mittel wir haetten anwenden sollen.\*\*\*
- F. Haben Sie persoenlich irgendeine Firma vor dem 1. September 1939 gezwungen, irgendwelche Anlagen einzurichten, um ein spezielles Produkt herzustellen?
- A. Wir haben die Leute nie gezwungen." (Protokoll 11481).

Z.B. koennte man sich vorstellen, dass bei der ersten grossen D-L-Anlage die I.G. die Bereitstellung des Aethylens uebernimmt (Linde-Anlage), bei Fehlschlag der Leverkusener Versuche, fuer die D-L-Apparatur. " 98

( 133 ) Giftgaserzeugungsanlagen wurden in der Hauptsache mit Reichsgeldern erbaut, aber von der I.G. oder Tochtergesellschaften der I.G. betrieben. Was die Fabriken, welche die fertigen Giftgase herstellten, anlangt, so bestand der Beitrag der I.G. in technischer Hilfe bei dem Entwurf und der Errichtung von 90% dieser Fabriken.

( 134 ) Die Fabriken, welche die I.G. vor dem 1. September 1939 zwecks Herstellung von Zwischenprodukten errichtete und deren Bestimmung fuer chemische Kampfstoffe bekannt war, sind Huels, Tristberg (Gondorf) und die Erweiterungsanlagen in Schkopau, Uerdingen, und Ludwigshafen. Hieffuer muss dem gesamten Vorstand die Verantwortlichkeit aufgelastet werden. Wie von uns angegeben, beteiligten sich infolge ihrer technischen Spezialisierung besonders Krauch und Ambros auf diesem Gebiet.

98 Die Zusammenarbeit zwischen der I.G. und Orgamid haeelt sich an diese Richtlinien. ( Zeugenaussage Zahn, Protokoll 11608 ).



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BESTÄTIGUNG DER UeBERSETZUNG

15 July 1948

Wir,	Victoria ORTON,	ETO # 20129,
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	Leonard J. LAWRENCE,	ETO # 20138,
	Eugene R. KUN,	D - 429798,
	Alfred RAHL,	B 398081,

bestaetigen hiermit, dass wir offizielle Uebersetzer fuer die deutsche und englische Sprache sind und dass obiges Schriftstueck eine wahrheitsgetreue und genaue Uebersetzung des "Abschliessenden Schriftsatzes der Anklagebehoerde" ist.

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MILITÄR-GERICHTSHOF

DIE VEREINIGTEN STAATEN VON AMERIKA

- gegen -

KRAUCH und andere (Fall VI)

ABSCHLIESSENDE SCHRIFTSATZ DER ANKLAGENSCHRIFT

TEIL III

Gewisse Betretungen auf dem Gebiete von  
Flugplatz und Kriegsbeute.

Nürnberg, Deutschland.

1. Juni 1948.



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A. EINLEITUNG.

Rechtsgrundlage.

(1) Hinsichtlich der Rechtsgrundlage verweisen wir auf unsere einleitende Bemerkung, Protokoll 2490 - 92, die der Vorlage von Anklagepunkt II vorangeht und auf unseren Einleitenden Schriftsatz, Teil II, Seite 1-11. Zusätzliche Bemerkungen eruebrigen sich. Die Verteidigung, insbesondere die des Herrn von Schnitzler, hat dahingehende Beweise erbracht, dass die Alliierten während des Krieges gleichfalls in einzelnen Fällen die Haager Konvention verletztten oder sie wenigstens im gleichen Sinne wie Deutschland auslegten. (Vgl. Sowjet-Notiz, von Schnitzler Beweisstück 120). Wir brauchen auf diesen Einwand nicht weiter einzugehen. Selbst wenn der Beweis erbracht werden könnte, dass Sowjet Russland damals auch die Haager Konvention verletzte, so wäre dies fuer die Angeklagten keine Entschuldigung. Ein Unrecht wird nicht zum Recht, nur weil mehr als eine Person oder Menschengruppe, oder mehr als ein Land dies Unrecht begeht. (Vgl. hierzu die Ausführungen des Vorsitzenden Richters dieses Gerichtshofes, Protokoll 7669).

Allgemeine Hinweise.

(2) Die Anklagebehörde hat die Beweise, auf denen die Anklage in Bezug auf Klagepunkt II beruht, in ihrem Einleitenden Schriftsatz, Teil II, Nr. 15-34, der durch Bezugnahme hierin einverleibt ist, einer allgemeinen Prüfung unterzogen. Angesichts des von der Verteidigung vorgelegten Bestandes sind die Pluenderungsfälle von Norwegen und Rhone-Poulenc in diesem Schriftsatz, Teil III B und D dargelegt und neu entwickelt worden. Was Francolor betrifft, so sind die Haupteinwände unter Teil III C behandelt worden. Die Einwände, die in den oben erwähnten Schriftsätzen noch nicht erledigt wurden, werden hier in Teil VI behandelt werden und, wie folgt, unter besonderen Schriftsätzen der einzelnen Angeklagten:

Francolor Fall: von Schnitzler, ter Meer, Kugler, Ambros.

Rhone-Poulenc-Fall: Mann;

Der Fall Norwegens: Ilgner und Haefliger.

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Gemäss der Entscheidung dieses Gerichtes vom 22. April 1948 sollen die Faellen Oesterreichs und der Tschechoslowakei nicht mehr als zum Anklagepunkt II gehorig angesehen werden. Ein Teil der in diesen zwei Faellen vorgelegten Beweise ist entweder in Verbindung mit Anklagepunkt I nachgeprüft worden oder wird spaeter unter Teil VI behandelt werden.

(3) Mit Bezug auf Pluenderung in Sowjet Russland, Polen und Elsass-Lothringen werden die aufgestellten Verteidigungseinwaende hier in Teil VI, wie unten folgt, unter besonderen Schriftsätzen der einzelnen Angeklagten behandelt werden.

Sowjet\_Russland: ter Meer und Ambros (im allgemeinen)  
Fuetefisch (Kontinentale Oel A.G.);

Polen: ter Meer und von Schnitzler;

Elsass-Lothringen: Hurster und Jaehne (Sauerstoff- und Azetylenfabriken)

Krauch (Simon-Grube)  
ter Meer (Kuhlmann Anlage).

Pluenderungsoffer, die nicht fuer Fakten aussagen.

(4) Einer Erwaegung der Verteidigungseinwaende hinsichtlich Anklagepunkt II (unter B, C, D und Einzelschlusssätze unter Teil VI) muss der Hinweis vorangehen, dass die Verteidigung keinerlei Gebrauch gemacht hat von der einzig glaubwuerdigen Auskunftsource, die das Gewicht der zeitgenoessischen Beweisstuecke wirksam haette entkraeftigen koennen: die Aussagen oder eidesstattlichen Erklaerungen seitens der Opfer. Es ist wahr, die Opfer oder ihre Stellvertreter wohnen alle jenseits der deutschen Grenzen, insbesondere in der Schweiz, in Frankreich und Norwegen. Aber von den mehreren Hundert eidesstattlichen Erklaerungen, auf deren mit Hinsicht auf die zeitgenoessischen Schriftstuecke abschwachende Kraft die Verteidigung sich verlaesst, wohnen Dutzende der Zeugen, welche diese Erklaerungen ablegten, sogar in den Vereinigten Staaten, in Sued-Amerika und Palastina. Viele dieser Zeugen leben in der Schweiz, in Frankreich und Norwegen, doch sind keine von ihnen Vertreter der gepluenderten Unternehmen, ausgenommen in zwei ausschliesslichen Faellen, in denen Stellvertreter der gepluenderten Firmen fuer die Verteidigung eidesstattliche Erklaerungen ablegten, die sich jedoch in enger Beschraenkung



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lediglich auf die Person eines einzelnen Angeklagten bezogen: (1) Monsieur Bo, der Leiter von Rhone-Poulenc (Hoerlein Beweisstück 49) bestaetigt, dass Hoerlein einem Franzosen zu Hilfe kam und dies unter Umstaenden tat, die in keiner Weise mit Rhone-Poulenc oder einer der anderen in Mitbeteiligung gezogenen Firmen zusammenhing; (2) Erikson, Generaldirektor der Norsk Hydro, sagte aus, dass seine Firma dem Angeklagten Oster fuer sein Benehmen zu Dank verpflichtet sei. (Oster Beweisstück 53). Wir fanden keine weiteren Faelle. Wenn aber Bo und Erikson fuer die obigen Aussagen verfuegbar waren, so haette man sie auch ueber einschliessliche wesentliche Dinge befragen koennen. Gerade diese zwei Beispiele sind fuer die Haupttaetigkeit in jedem Falle um so mehr belastend: Bo hat seine eidesstattliche Erklaerung nicht zu Gunsten Manns abgelegt, der im Rhone-Poulenc Fall die Initiative ergriffen hatte, noch hat Erikson zum Besten der Angeklagten Ilner, Haefliger oder Buergin ausgesagt, die im Falle Norwegens die tatkraeftigsten waren. Die Verteidigung hat besonders hervorgehoben, dass sie keine befriedigende Antwort erhielt, als man an Herrn Erikson, den Generaldirektor der Norsk Hydro schrieb, ebensowenig wie von Thomas Fearnley, dem Vorstandsmitglied der Norsk Hydro. (Ilner Beweisstück 258, 259). Doch sprechen diese Beweisstuecke fuer sich selbst. Die betreffenden Herren erklarten, dass sie ihren Bericht bereits der Anklagebehoerde erstattet hatten. In gleicher Weise war die Verteidigung in der Lage, nach Belieben die Berichte der Opfer sich zu verschaffen, an Hand der Anschriften auf den eidesstattlichen Erklaerungen, welche die Anklagebehoerde in ihre Urkundenbuecher einschloss (die jedoch vom Gerichtshof auf Antrag der Verteidigung als anhaeuende oder unzulessige Gegenbeweise zurueckgewiesen oder sonst nicht vorgebracht wurden). So schaltete zum Beispiel die Anklagebehoerde in ihren Urkundenbuechern die eidesstattliche Erklaerungen der Hauptvertraeter der franzoesischen Unternehmungen ein, denen der Francolor-Vertrag auferlegt wurde, das heisst, Duchemin (Dokument Buch 58, Seite 101), Thesmar, (Dok. Buch 58, Seite 88), Castets (Dok. Buch 57, Seite 95); die von Bo (Dok. Buch 60, Seite 49 und 51) und Buisson (Dok. Buch 92, Seite 46) im Rhone-Poulenc Fall, ferner von Allier (Dok. Buch 92, Seite 57), Vorstandsmitglied der Norsk Hydro und Direktor der Banque de Paris et des Pays-Bas im Falle Norwegen. Die von der Verteidigung vorgelegten eidesstattlichen Erklaerungen ruehren fast ausschliesslich von Personen her, die in der einen oder anderen Weise an diesem Pluenderungsvorbrehen teilnahmen.

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und sich deshalb in der gleichen Lage wie diese Angeklagten befinden. Andererseits haben die Besitzer oder Vertreter der geplünderten Unternehmen, wenn immer die Anklagebehörde sie dazu aufforderte, die Beschuldigungen der Anklage weitgehendst bekräftigt. Das erste Beispiel war hierzu die eidesstattliche Erklärung und Aussage Dr. Szpilfogels (Anklage-Beweisstueck 1159, Protokoll 2630 und folgende), des 76jährigen Eigentümers der geplünderten polnischen Fabrik Wola. Ein weiteres Beispiel sind eidesstattliche Erklärung und Aussage des früheren Direktors der Aussig-Falkenau Anlage, Jan Dvoracek, (Ankl.-Beweisstueck 1123, Protokoll 3490 und folgende), dessen Erbitterung gegen diese Angeklagten nach dem Verlauf von fast 10 Jahren uns noch frisch im Gedächtnis geblieben ist. Dasselbe ist auf die eidesstattliche Erklärung des Dr. Antonin Basch anzuwenden, des früheren Generaldirektors des Prager Vereins, der damals mit den "Verhandlungen" mit I.G. Farben betraut war. (Ankl. Beweisstueck 1852). Er beschreibt den Geist, von dem diese Unterredungen getragen waren: das grosse goldene Hakenkreuz, das von dem Angeklagten Ilmer zur Schau getragen wurden und den Hinweis auf die Nazi-Regierung, mit deren Einschreiten der Angeklagte von Schnitzler gedroht hatte. Von gleicher Art sind die eidesstattlichen Erklärungen des früheren Generaldirektors der Oesterreichischen Kreditanstalt und des früheren Präsidenten der Skoda-Wetzlar Werke, Dr. Johann und Professor Rottenberg (Anklage-Beweisstueck 1067 und 1068), die auch im Kreuzverhoer ihre Beschuldigungen voellig aufrechterhielten; Protokoll 6829 und folgende; 6874 und folgende. (Die Faelle Oesterreichs und der Tschechoslowakei sind unter Anklagepunkt I, Teil I und VI behandelt).

Farben's Einwände gegen zeitgenössische Dokumente.

(5) Abgesehen von den Aussagen der wenigen Opfer, die tatsaechlich Zeugnis ablekten, hat die Anklagebehörde sich hauptsaechlich auf die zeitgenössischen Dokumente gestuetzt. In Bezug auf die letzteren hat die Verteidigung versucht, eine Anzahl "Erklärungen" aufzustellen, die, wie folgt, zusammengefasst werden koennen: Entweder dienen sie als "Dekoration" ("window-dressing") (Vgl. Ambros und ter Meer Verhoer mit Bezug auf Francolor-Erzeugung, Protokoll 8044, 8063, 8073, 8083, 13038) selbst wenn, worauf Anspruch gemacht wird, obwohl sie von einer Nazibehörde zur andern geschickt wurden, (Ankl. Beweisstueck 1907, 1909), diese Dokumente anscheinend innerbetriebliche Farben-akten sind (Anklage-Beweisstueck 1911, 1912, 2198). Sonst aber wird behauptet,

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dass sie unrichtig und ungenau seien. (Mann, der in Bezug auf das Mann-Beweisstück 188, Protokoll 10400 aussagte, ferner Manns Zeugnis hinsichtlich Anklagebeweisstück 1269, Protokoll 10421). Dann wird behauptet, dass gewisse "Bemerkungen" falsch sind, weil sie nur als "Höflichkeitsform" ("a polite formula") gebracht wurden (ter Meer in seiner Aussage ueber Ankl. Beweisstück 2196, Protokoll 13223). Dann wieder handelt es sich um eine gänzlich einseitige Darstellung (ter Meer in seiner Aussage ueber Ankl. Beweisstück 2193, Protokoll 13215/6). Auch wird behauptet, dass die Schriftstücke von einem Farben-Angestellten aufgesetzt wurden, der "journalistisch begabt" oder "etwas empfindlich" war (Kuglers Aussage ueber Ankl. Beweisstück 1241, Protokoll 12676, 12690). Noch andere waren von einem "sehr jungen" Angestellten der Firma Farben geschrieben (ter Meers Aussage ueber Ankl. Beweisstück 1885, Protokoll 1314). Dann wieder wird behauptet, dass sie von einem Angestellten verfasst wurden, "der wahrscheinlich von den genauen Umständen nicht unterrichtet war" (Verteidigungszeuge Schwab in seiner Aussage ueber Ankl. Beweisstück 1157, Protokoll 6063). Ein kurzer Ruckblick auf Ankl. Beweisstück 1269, das Farbens Bericht ueber die erste Zusammenkunft mit Rhone-Poulenc enthaelt, beweist, dass der Verfasser dieses Beweisstückes, Werner Schmitz, ausgesagt hat, (Protokoll 13734) es waere von ihm "eine Woche nach der Pariser Zusammenkunft" aufgesetzt worden und zwar "auf der Grundlage handschriftlicher Aufzeichnungen und Niederschriften, die ich waehrend der Verhandlungen auf Papiertzetteln machte." Jetzt aber, mehr als sieben Jahre nach dem Ereignis, gibt er vor durch Erklarungen einige dieser Vermerke beseitigen zu koennen, die er damals aus eigenem Antrieb fuer Farbens innerbetrieblichen Gebrauch gemacht hatte. (Protokoll 13735). In unserer Beurteilung der Beweise werden wir im allgemeinen ueber "Einwaende" dieser Art hinweggehen, obwohl wir es mitunter erwahnen werden, dass solche "Einwaende" erhoben wurden. Es genuegt der Hinweis, dass in keinem Einzelfall die Angeklagten damals gegen die Briefe oder Protokolle Einspruch erhoben, in denen sie, wie sie jetzt behaupten, unrichtig zitiert wurden oder in denen ihre Bemerkungen in entstellter, irrefuehrender oder irrtuemlicher Weise wiedergegeben wurden.



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B. Norwegen.

Allgemeine Hinweise.

(6) Die Fülle der von der Verteidigung vorgelegten Dokumente, die zahlreichen unterbreiteten eidesstattlichen Erklärungen und die weitgehenden, direkten Zeugenaussagen der Angeklagten Krauch, Haefliger, Buergin, Oster und Ilger haben vielleicht eine gewisse Verwirrung verursacht mit Hinsicht auf die uns vorliegenden strittigen Fragen. Wir beabsichtigen deshalb, eine kurze Übersicht von dem Fall der norwegischen Plünderung als Ganzem zu geben - abgesehen von dem allgemeinen Hinweis auf unseren einleitenden Schriftsatz (Teil II, Seite 31 und folgende), der auch hier einverleibt ist.

Zweifacher Gesichtspunkt des Falls.

(7) Unsere Anklage im Falle Norwegens ist eine doppelte. Erstens, die Plünderung von Norwegen selbst durch Einschaltung seiner wirtschaftlichen Möglichkeiten in die deutsche Kriegsspannung ohne Rücksicht auf die einheimische Volkswirtschaft (Ankl. Beweisstück 1197) und folglich das Freigeben Norwegens und der Anlagen von Norsk Hydro der Gefahr alliierter Luftangriffe (Einleitender Schriftsatz, Teil II, Nr. 26). Zweitens, die Plünderung der französischen Aktienreihe von Norsk Hydro, dem bedeutendsten Industrie-Unternehmen Norwegens, dessen Hauptteil seit der Organisation von Norsk Hydro im Jahre 1904 sich in Händen französischer Aktienbesitzer befand: Ankl. Beweisstück 1208, Seite 3 (Einleitender Schriftsatz, Teil II, Nr. 27).

Erster Gesichtspunkt: Plünderung von Norwegen selbst.

(8) Die Angeklagten leugnen nicht, dass die norwegische Wirtschaft durch Einschaltung ihrer ökonomischen Möglichkeiten in die deutsche Kriegsausbeutung aufs grausamste ausgenutzt worden sollte. Es ist wahr, die Angeklagten versuchen jetzt Mayer-Kuosters damalige Feststellung: "Die norwegische Wirtschaft wird mobilisiert werden, um für uns zu arbeiten" (Ankl. Beweisstück 1192) hinwegzuerklären (Protokoll 5468, 9576, 9191). Doch können sie - und tun es auch nicht - keinen Einspruch erheben gegen den damaligen Bericht ihres juristischen Beauftragten, Mayer-Wegelin, "dass der Führer Befehl gegeben hatte, die norwegischen Aluminium-Erträge für die Erfordernisse der Luftwaffe zurückzubehalten".

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(Ankl. Beweisstück 1197). Das gerade ist durch die Haager Konvention verboten. (Artikel 52). Die aus dem Ankl. Beweisstück ersichtlichen, weitgehenden Pläne sind jetzt noch vervollständigt durch die Aussagen von Krauch (Protokoll 5516), Oster (Protokoll 10743) und Ilner (Protokoll 9580). Sie stimmen alle darin überein, dass Norsk Hydro, um das es sich hauptsächlich bei diesen deutschen Plänen handelte, sehr abgeneigt war, im Grossen Leichtmetalle fuer die deutsche Luftwaffe zu fertigen (Oster, Protokoll 10743); dass sie nur "infolge von Herrn Koppenbergs Zusetzen handelten, weil er sie dazu zwingen wollte" (Oster, Protokoll 10785); dass "das Luftfahrt-Ministerium auf Norsk Hydro einen gewissen Druck ausueben sollte" (Krauch, Protokoll 5519); dass Norsk Hydro daran zweifelte, ob man "dem Vorschlag (der Nazi-Regierung) ausweichen koennte, da sie andernfalls ja Zwangsmassregeln ergreifen wuerden" (Krauch, Protokoll 5516); und dass die Aluminiumfabrik der Nordisk Løttemetall von Koppenberg aufgezwungen wurde" (Hofligers Verteidiger, Protokoll 9189). Aus den Erklärungen Krauchs und Osters (Protokoll 5400 und 10750) geht hervor, dass der damalige Generaldirektor der Norsk Hydro, Aubert, sich an einzelne der Angeklagten, darunter Krauch und Oster, um Hilfe wandte. Trotz alledem wurde der deutsche Plan vollkommen durchgefuehrt. Leichtmetalle, insbesondere Aluminium und Magnesium, ferner Kryolith und Tonerde sollten fuer die deutsche Luftwaffe erzeugt werden und dabei wurde eine "dauernde Beteiligung" beabsichtigt (Prot. 8405). Da die vorrätigen Wasserkraefte solchen Kraftwerken zugelenkt werden mussten, die den geplanten Leichtmetallfabriken dienten, sollte Norsk Hydros Stickstoffherzeugung, wenn noetig, zu diesem Zwecke "erdrosselt" werden (Ankl. Beweisstück 1195, Protokoll 5519, ebenfalls Protokoll 10746 unten, 10747).

(9) Als Zusammenfassung der persönlichen Zeugenaussagen der Angeklagten: Dieses norwegische Abenteuer, auf das sie sich eingelassen hatten, war "uebertrieben" (Oster, Protokoll 10743), "wirtschaftlich nicht einwandfrei" (Krauch, Protokoll 5167, 5516), und fuehrte zu "einem verrueckten Ausbreitungsprogramm" (Ilner, Protokoll 9580). "Alle stimmten darin überein, dass es unmöglich war" (Protokoll 9139). Sein eindeutiger Zweck war der, der deutschen Luftwaffe zu dienen (Protokoll 5396). Mit anderen Worten: Es fuer Norwegens Eroberer zu ermöglichen, die Verbündeten dieses Landes zu besiegen und es dadurch dauernd

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zu unterjochen. Dies sollte zum Untergang der Norsk Hydro-Anlagen führen und aus ihnen einen Trümmorhaufen machen. (Protokoll 8407. Ilner Beweisstück 196, sein Buch XII A, Seite 6; Osters eidesstattliche Erklärung, Anklage Beweisstück 1210). Bei all diesen Voraussetzungen bleibt nur eine Frage, die das Verbrechen mildern könnte: War die Firma Farbon durch Nazi-Druck gezwungen, sich an einem solchen Unternehmen zu beteiligen, bedrht von all den Schrecken, die das Dritte Reich ihr im Falle des Widerstandes zumessen konnte? Oder nahmen Farbon nur mit Widerstreben daran teil, in der Gewissheit, dass der Plan ja auf jeden Fall verwirklicht werden würde? Oder erbt es sich bereitwilligst zur Mitharbeit als Teilnehmer mit allen Rechten und Pflichten, in voller Tatkraft voran und berechnete, welche Vorteile man möglicherweise dabei realisieren könnte, mit Herrscherplänen fuer die Zeit nach dem Kriege, wenn nicht sogar waehrend desselben?

(10) Die Angeklagten behaupten jetzt natuerlich, dass die gezwungenenmassen so handelten oder, wenn nicht vollkommen unter Druck, so war ihre Beteiligung jedenfalls widerwillig. Der Angeklagte Krauch insbesondere bezeugte beim Kreuzverhoer, dass er sich "durch das Dritte Reich penetriert fuehlte, bei dem norwegischen Plan zu helfen"; dass Farbon sich auch "den Willen der Regierung fueren musste"; dass sie "nicht anders handeln konnten" und dass sie "im Falle eines Widerstandes nicht gut davonkommen wuerden" (Protokoll 5516/17). Vgl. ebenfalls Haefliger (Protokoll 9185). Die derzeitigen Dokumente jedoch, die entweder von den Angeklagten selbst verfasst oder an sie adressiert waren, stellen gerade das Gegenteil dar. Bevor wir die vielen Schriftstuecke, welche die Anklagebehörde in Buch 65 vorgelegt hat, pruefen, weisen wir auf Ankl. Beweisstück 586 hin, das Schreiben Puervins und Meschels, der fuer Ilner aussagte, an die Angeklagten Schmitz, ter Meer und andere vom 23. Oktober 1940. Dieses Schreiben enthueilt Goerings, Udets und Koppenbergs ganzes Programm mit Hinsicht auf die "im grossen geplanten Erweiterung der norwegischen Aluminium-Erzeugung". Es ist zu bemerken, dass dieses Schreiben sich in erster Linie auf Aluminium bezieht, das heisst auf jenen Teil der ungenutzten norwegischen Erzeugung, den



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die Angeklagten heute am lautesten rufen. Weit davon entfernt, Kritik zu üben oder Widerstreben zu bezeugen, sind Krauch und Moschel sehr fuer Krauchs Vorschlag hinsichtlich der Farbenbeteiligung. Sie stimmen alle darin ueberein, dass "eine ausgesprochene Beteiligung der Firma Farben bei der Aluminium-Entwicklung von grundlegender Bedeutung in Farbens Beherrschung dieser Wasserwerke werden koenne. Solch ein Schritt waere von weitgehendster Wichtigkeit fuer die Entwicklung der ganzen Leichtmetallindustrie, einem Felde, in dem Farben zur Fuehrung berechtigt sind auf Grund ihrer bahnbrechenden Anstrengungen und finanziellen Opfer." (Anklage Beweisstueck 586, Seite 2; im Original unterstrichen). Nach Aufzaehlung weiterer Gruende, warum eine Farbenbeteiligung im Interesse der Firma sehr erwuenscht ist, schliesst das Schreiben damit, dass eine Farbenbeteiligung von 55% fuer die neu zu begruendende norwegische Koerperschaft "empfohlen" wird. Bei diesen "Empfehlungen" ging der Angeklagte Krauch auf eigene Verantwortung weit ueber sein von der Forderung gestelltes Aufgabengebiet hinaus, da er, gemass seiner Erklaerung beim Kreuzverhoer, "keinen dienstlichen Auftrag dazu hatte ..... Ich war in dieser Hinsicht sachlich nicht zustaeendig. Ich hatte nur Koppenberg zu beraten, ob das Verfahren darauf hindeutete....." (Protokoll 5515). Dass Farben an dem Plan in der oben beschriebenen Weise teilnehmen sollte, (Ausfuhrung aus Anklage-Beweisstueck 586, supra), war deshalb Krauchs eigener Vorschlag, den er als Mitglied des Farbenvorstands machte und nicht auf Anregung oder gar infolge eines Druckes der Regierung. Das gleiche gilt fuer den Absender des Briefes, den Angeklagten Bucyrin. Hier war der gesamte Farbenvorstand auch wieder voll in Kenntnis gesetzt - diesmal von den Angeklagten Haefliger und Ilgners Zeuge Moschel - von dem deutschen Plan fuer Norwegen und insbesondere von dem Ansuchen des Luftfahrt-Ministeriums

\*) Was die geplante Magnesium-Erzeugung anbetrifft, so scheinen die Angeklagten keinen Druck geltend zu machen. In Bezug auf die Initiative widersprechen sich ihre Aussagen. Haefliger in seiner oidesstattlichen Erklaerung (Ankl. Beweisstueck 2000) weist auf Farben hin; in seiner Zeurenaussage (Protokoll 9438) schliesst er sich Krauchs Darstellung an (Protokoll 5400), dass Norsk Hydro selbst die Initiative ergriff. Jedoch schreibt Bucyrin (Protokoll 8406) und der fuer Ilner aussagende Zeuge Moschel (Ilner Beweisstueck 196) dies dem deutschen Luftfahrt-Ministerium zu, auf dessen Befehl Farben sich mit Norsk Hydro in Verbindung setzte. Was das Gesamtbild anbetrifft, ist das zeitgenoessische Dokument, Ankl. Beweisstueck 1200, von Wichtigkeit, in dem Ilner den Farben Vorstand ihren erinnert, dass "Norsk Hydro sich unter den jetzigen Umstaenden nur auf unseren Wunsch und in vollem Vertrauen auf Farben auf eine Beteiligung bei Nordisk Lettmetall eingelassen hat".

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in Høroen (der grössten Norsk Hydro Anlage) Aluminium, Tonerde und Kryolith erzeugende Fabriken zu errichten. Dieses eine Projekt belief sich auf annähernd 160 Millionen Norwegische Kronen. "Nach eingehender Besprechung, während welcher unterstrichen wurde, dass I.G. ausserordentlich stark daran interessiert sei, in Norwegen festen Fuss zu fassen, namentlich mit Hinsicht auf die geplante Erweiterung wichtiger Wasserwerke, wurde beschlossen, weitere Verhandlungen in dem Sinne zu führen, dass fuer das Høroen Projekt eine I.G. Beteiligung von 51 %, mit 49 % Beteiligung fuer Norsk Hydro, vorgesehen war." Dann wieder muss nicht uebersehen werden, dass sich dieser Plan nicht nur auf Magnesium beschränkte, sondern dass er "das gesamte Aufbauprogramm einschloss". (Anklage Beweisstueck 1193, Protokoll der Vorstandssitzung vom 5 Februar 1941, unterzeichnet von den Angeklagten Schmitz und Brueggemann). Nach dieser grundsätzlichen Entscheidung begann die Firma Farben einen Wettstreit mit den Reichsstellen fuer moeglichst grosse Beteiligung (Anklage Beweisstueck 1195), beanspruchte die wirtschaftliche Fuehrung, während das Reich Farben auf die technische Beratung beschränken wollte ohne "I.G.s wirtschaftliche Vorherrschaft anzuerkennen." (Ankl. Beweisstueck 1195), und ging in solcher Weise vor, dass sie die Anerkennung voll verdiente, die ihr von Goerings hervorragenden Stellvertreter Dr. Koppenberg gezollt wurde, der "Farbens bisherige Leistungen auf dem Felde der Ruestungserzeugung" pries und besonders "die Bereitwilligkeit und Schnelligkeit" hervorhob, "mit der die Firma Farben stets gehandelt und aufgebaut hatte, ohne auf Unterzeichnung der Verträge zu warten" (Ankl. Beweisstueck 587). Als einmal die Grundlagen festgesetzt waren fuer die Leichtmetallkooperation, und I.G. Farben, das deutsche Luftfahrt Ministerium und Norsk Hydro je einen gleichen Anteil daran erhalten hatten, sandte der Angeklagte Ilgen seinen "streng vertraulichen" Brief vom 15. September 1941 an alle Mitglieder des Farben-Vorstandes. Voller Zuversicht, "dass jetzt der Augenblick gekommen ist, Wünsche und Vorschlaege zu unterbreiten, welche sich auf jene durch die deutsche Industrie ins Leben gerufenen Unternehmungen beziehen, die zur Zeit hauptsaechlich mit Elektrizitaet, der Leichtmetallerzeugung und dem Bergbau in Verbindung stehen", legt er seine Norwegen Denkschrift bei, die dazu bestimmt war, Farbens "Neugeordneten Norwegen" einverleibt zu werden. (Ankl. Beweisstueck 1191, Seite 29 und folgende). Die Beduerfnisse der norwegischen Nationalwirtschaft voellig uebersehend, unterstreicht er, dass der Betrieb der Leichtmetallanlagen in

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Norwegen fuer Deutschland von wesentlicher Bedeutung sei, dass diese Anlagen von der Elektrizitaetsversorgung zu massigen Preisen abhaengig seien, dass deshalb Vertraege fuer 99 Jahre zwischen den Leichtmetallanlagen und den norwegischen Elektrizitaetswerken abgeschlossen werden sollten, und dass solche "Elektrizitaetswerke ganz sicher ihre vorhandene Kraft in erster Linie den Leichtmetallanlagen anbieten . . . . Wenn noetig, werden die Leichtmetallanlagen dazu ermuechtigt, selbst den Betrieb der Elektrizitaetswerke zu uebernehmen." (Inkl. Beweisstuock 1191, Seite 31). Das ganze Schriftstuock ist eine Enthuecllung.

(11) Diese Schritte in ihrer Gesamtheit - Krauchs und Buergins "Empfehlungen" von 23. Oktober 1940, der Beschluss des Farben Vorstands von 5. Februar 1941 und Ilgnors Vorschlaege von 15. September 1941 widerlegen klar und saeutlich dies Maerchen eines von der Regierung auf Farben ausgeuebten Druckes zwecks Beteiligung an diesen Unternehmen. Was immer Farben seit dem Erscheinen des Norwegischen Leichtmetallplanes unternahm, war unbedingt nicht die Rueckwirkung eines widerstrebenden "Mitreisenden." Ganz im Gegenteil gewinnen wir daraus den Eindruck eines begeisterten Beistandes. Die Farben-Beamten koennen deshalb fuer ihre Beteiligung keine Milderungsgruende beanspruchen.

(12) Noch eine Gruppe sogenannter Verteidigungseinwaende verdient Erwaechnung: Dass Farben fuer Norsk Hydro die Beteiligung zu einem Drittel bei der Leichtmetall-Werkschenschaft erlangte (Ilgnor Beweisstuock 196, 197); dass sie den Vorstand von Norsk Hydro anstaendig und freundschaftlich behandelten (Ilgnor Dok.-Buch 12 A, Ilgnor Beweisstuock 197, Seite 13. Ilgnor Beweisstuock 199, Seite 30), dass die Firma Farben bei den Nazibehoerden darauf drang, den Schaden gutzumachen, (Ilgnor Dok.-Buch 12 A, Ilgnor Beweisstuock 196, Seite 7; 197, Seite 17. 199, Seite 36; 204; 205; 206; 210, Seite 63) als die Leichtmetallanlage durch Bombenangriff zerstoeert worden war mit einem sich daraus fuer Norsk Hydro ergebenden Verlust von ueber 50 Millionen Kronen. (Ilgnor Protokoll 9659); und dass schliesslich die von den deutschen Teilhabern einschliesslich Farben an Norsk Hydro gelieferten Ausruestungen und Maschinen dort verblieben, sodass Norsk Hydro fuer den erlittenen Verlust reichlich entschaedigt wurde (Protokoll 9659; Ilgnor Beweisstuock 197, Buch XII A, Seite 20/22). Der grosste Teil des in dieser Verbindung vorgelegten Materials wurde zu einer



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Zeit unterbreitet als gemäss dem Gerichtsverfahren Dokumente nicht widerlegt und Zeugen nicht im Kreuzverhoer vernommen werden konnten. Aber wir können es dabei belassen; sie beweisen nichts als Verteidigung und sind ebensowenig von Gewicht als Milderungsgründe.

(c) Norsk Hydros Beteiligung zu einem Drittel an Nordisk Løtmetall. In Laufe dieses Leichtmetall-Unternehmens wurde ein zweiter Zweck erreicht; Norsk Hydro war zu einem deutschen Unternehmen unter deutscher "Führung" geworden (ein von Farben zur damaligen Zeit angewandter Ausdruck; Beweisstück 1199, Seite 2) mit Farben als leitendem Teilnehmer (13, infra). Die Zulassung von Norsk Hydro zur Beteiligung an der Leichtmetall-Körperschaft war ein zweckdienliches Mittel, Norsk Hydros Stammkapital zu erhöhen, und diese Erhöhung des Stammkapitals suchte ihrerseits dazu, grösseren Einfluss zu erlangen. (13, infra). Es muss zugegeben werden, dass das deutsche Reich oder seine Dienststellen an beiden beteiligt waren, an dem Stammkapital von Norsk Hydro und der Leichtmetall-Körperschaft. Aber dies wurde von Farben als vorübergehendes Uebel angesehen insofern, als man hoffen konnte und sogar vom Reich gewisse Versprechen erhalten hatte, dass eine spätere "Rückprivatisierung" es der Firma Farben ermöglichen würde, den Reichsanteil zu erwerben (Haeffliger, Ankl. Beweisstück 2000; Seite 2 unten, Protokoll 9187; Ilgner, Ankl. Beweisstück 1209, Seite 3; vergl. auch Mayer-Megelin, Ankl. Beweisstück 1211). Was deshalb Norsk Hydro durch Beeinflussung der Firma Farben erwarb, erlangte Farben letzten Endes fuer sich selbst.

(b) Die Behandlung des Norsk Hydro Vorstandes. Auf der gleichen Grundlage war die Firma natürlich daran interessiert, freundschaftliche Beziehungen mit dem Vorstand von Norsk Hydro in Gang zu bringen und aufrecht zu erhalten. Die Mitglieder des Vorstandes waren tüchtig und angesehen, Norsk Hydro war jetzt zu einem Unternehmen unter deutscher "Führung" geworden mit der Aussicht, nach dem Krieg als weitere Tochtergesellschaft Farben angegliedert zu werden. Deshalb lag kein Grund vor, sich die Feindschaft der dortigen Verwaltung zuzuziehen, solange sie sich in ihrer immerhin bedauernden Lage nicht in die Leichtmetallerzeugung mischte oder Farbens Wunsch, die führende Rolle zu spielen, entgegenwirkte.

(c) Schadenersatz nach der Zerstörung der Fabrikanlagen durch Luftangriff. Jede Entschädigung, die vom deutschen Reich der Leichtmetall Körperschaft gezahlt wurde, kam der Firma Farben direkt zu Gute. Ein Drittel gehörte Farben selbst,

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ein zweites Drittel der Norsk Hydro, wie wir es soeben oben ausgeführt haben. Je mehr das deutsche Reich Nordisk Leichtmetall fuer die erlittenen Verluste entschadigte, um so besser fuer Farben. In Wirklichkeit fanden jedoch keine solchen Zahlungen statt. (Ilgnor Dok. Buch XII A; Beweisstueck 196, Seite 7; Beweisstueck 197, Seite 17; Beweisstueck 210, Seite 62).

(d) Deutsche Ausruestung, die bei Norsk Hydro zurueckgelassen wurde. Waehrend es unstreitig wahr ist, dass Norsk Hydros Verlust an dem Leichtmetall-Projekt sich auf ueber 50 Millionen norwegischer Kronen belief (Protokoll 9659), behauptet Ilgnor "zur Verteidigung", dass "die Fabriken in Norwegen waren und dass die Norsk Hydro die Aufsicht ueber sie fuehrte." (Protokoll 9659; vergl. auch Ilgnor Beweisstueck 197, sein Buch XII A, Seite 20-22). Wir wollen den hohen Gerichtshof hier nicht mit einer eingehenden Darlegung der Beweise belastigen, die bezugen, dass Norsk Hydro an dem ganzen Geschaeft wesentliche Verluste hatte. Es moege genuegen, hier darauf hinzuweisen, dass es keine Entschuldigung fuer die Ausbeutung eines Landes und die Beraubung seiner Bevoelkerung ist, zu behaupten, dass der Fluenderer und Dieb auf frischer Tat betroffen wurde und entfloh, wobei er einen Teil seiner Beute und seiner Geratschaften zuruecklassen musste.

Zweiter Gesichtspunkt: Die Auspluenderung der franzoesischen Mehrheitsaktionaeere von Norsk Hydro.

(13) Die Beweisfuehrung hat ueber jeden vernuenftigen Zweifel hinaus bestaetigt, dass die franzoesischen Aktionaeere von Norsk Hydro gegen ihren Willen ihrer Mehrheitsbeteiligung beraubt wurden und dass in der Folge diese Mehrheit von einer deutschen Gruppe, vorwiegend I.G. Farben, uebernommen wurde. Es ist gleichfalls bewiesen, dass bei der Erhoehung des Stammkapitals von Norsk Hydro und der Errichtung der Leichtmetall-Koerperschaft Nordisk Leichtmetall (vergl. Einleitenden Schriftsatz, Teil II, No. 27) die Uebertragung des Norsk Hydro Mehrheitsanteils von den Franzosen auf die Deutschen, und darunter I.G. Farben, eines der wichtigsten deutschen Vorhaben war. Der groesste Teil dieser Tatsachen wurde von den Angeklagten in ihren Erklaerungen vor Beginn des Prozesses zugegeben. Als der letztere sich aber seinen Ende naecherte, begannen sie alles zu leugnen, sogar diese tatsaechlichen Umstaende, die, an und fuer sich, kein Verbrechen begruendeten, z.B.,

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die Tatsache, dass die Franzosen vor dem Kriege den Mehrheitsanteil an Norsk Hydro besaßen (Ilgners Beweisstück 197, Buch XII A, Seite 12; Ilgners Beweisstück 210, Buch XII A, Seite 61, gleichfalls Protokoll 9742; Oster, Protokoll 10749). Sie leugnen ebenfalls, dass die Erhöhung von Norsk Hydros Stammkapital ohne Einwilligung der Franzosen durchgeführt wurde (Ilgners Beweisstück 210, Buch XII A, Seite 54; mit Hinweis auf seine Beweisstücke 229, 230), dass die von den Deutschen unternommenen Schritte wirklich eine voellig oder ueberwiegend deutsche Mehrheit zur Folge hatten (Ilgners Beweisstück 199, 210; ebenfalls Protokoll 9624); und schliesslich leugneten sie, dass auf deutscher Seite je die Absicht bestanden haette, solch eine Mehrheit zu bewirken. Was diesen letzten Punkt anbetrifft, so hat die Verteidigung das Ilgners Beweisstück 197 eingefuehrt, eine beeidigte Erklaerung (Fragebogen) von Julius Franz, nachdem es nicht mehr im Kreuzverhoer befragt werden konnte. Franz war sehr dreist und ungeschliffen in seiner Antwort auf die Frage, ob die Erhöhung des Norsk Hydro Stammkapitals die Umwandlung der angeblichen französischen Mehrheit in eine Minderheit bezweckte. "Diese Annahme", sagte er, "ist meiner Meinung nach voellig laecherlich" (Ilgners Beweisstück 197, Buch XII A, Seite 12; vergl. Ilgners selbst beim Kreuzverhoer, Protokoll 9646/7).

Von dem letztgenannten Punkt ausgehend, koennen wir die Beweisfuehrung folgendermassen kurz zusammenfassen:

- (a) Die "laecherliche Idee", die Erhöhung des Norsk Hydro Stammkapitals dazu nutzbar zu machen, eine deutsche Mehrheit zu bewirken, taucht zum ersten Mal in Dr. Kerstens\* Notiz an den Angeklagten Ilgners vom 10. Maerz 1941 auf mit dem Titel "Erhöhung des Stammkapitals von Norsk Hydro." Er sagt darueber: "Waehrend der Besprechung sprachen beide Parteien, die Norweger und die Deutschen, den Wunsch aus, den Einfluss der norwegischen und deutschen Kapitalbeteiligung zu vergroessern" (Ankl. Beweisstück 1203). In einer anderen Niederschrift des Dr. Kersten vom 28. Maerz 1941 ist dies folgendermassen ausgedrueckt: "Zusammenwirken der deutschen industriellen Gruppen auf dem Gebiete des Leichtmetall-Kapitals/Erhöhung des Norsk Hydro";

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\* Dr. Kersten war "Farben-Prokurist und einer der Leiter von H.M.7 (Ilgners Art), insbesondere der Hauptfinanzverwaltung", Protokoll 9580.



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"... als Endziel sollte durch weitere finanzielle Unterhandlungen eine deutsche Mehrheit in Norsk Hydro bewirkt werden." (Ankl. Beweisstück 1204 mit von uns hinzugefügten Unterstreichungen).

Diese Notiz wurde, gemäss ihrer Verteilerliste u.a. an die folgenden Angeklagten geschickt: Krauch, Schmitz, ter Meer, Buergin, Haefliger, Oster, ferner an den Angeklagten Ilgner. Es besteht keine Aufzeichnung, dass einer von ihnen, einschliesslich des Angeklagten Ilgner, damals sich zu der "Lächerlichkeit" äusser-te, die Erhöhung des Stammkapitals von Norsk Hydro mit der Begründung einer deutschen Mehrheit in Verbindung zu bringen. Ganz im Gegenteil: Ilgner trug mit Wissen und Zustimmung der gesamten Angeklagten nach besten Kräften dazu bei und bewirkte tatsächlich solch eine Mehrheit (infra, c).

(1) Dass die Franzosen zu Beginn des zweiten Weltkrieges die Mehrheit in ihrem Besitz hatten, geht nicht nur aus den obengenannten Anklage Beweisstücken hervor, sondern auch aus dem Ilgner Beweisstück 226. Dies ist in Brief der Firma Farben an Norsk Hydro, vom 3. Juli 1941, unterschrieben von Gierlich und Kersten, der einen Bericht enthält ueber die Botsprechung Ilgners und anderen mit der Banque de Paris et des Pays-Bas. Es wird darin das Folgende angeführt:

"Die Herren der Banque de Paris haben in diesem Zusammenhang mitgeteilt, dass 65 % des Kapitals ihrer Gesellschaft in französischem Besitz seien, was fuer die Verteilung der Bezugsrechte, soweit solche etwa weder ausgeübt noch an die deutsche Gruppe verkauft werden sollten, von Bedeutung ist." (Ilgner Beweisstück 226, Buch III A, Seite 94).

Vergl. hierzu die gemeinsame Erklärung von Ilgner und Bachem, unterschrieben (Ankl. Beweisstück 1206, Seite 6), in Bezug auf Norsk Hydro vom 12. August 1945. Hier ist die französische Beteiligung bis zum Jahre 1941 mit 64 % angegeben.

(c) Dass, als Ergebnis der von der deutschen Gruppe einschliesslich der Firma Farben unternommenen Schritte, die Franzosen ihre Mehrheit zum Vorteil der Deutschen, mit Farben in Besitz des Louwenanteils, verloren hatten, ist eindeutig bewiesen durch Ankl. Beweisstück 1207. Der Angeklagte Ilgner scheint diese Tatsache zu bestreiten. Von seiner eigenen eidesstattlichen Erklärung (Ilgner Beweisstück 210) hat es jedoch den Anschein, als ob der einzige bedeutende Unterschied zwischen seiner Berechnung und der von der Angeklagebehörde aufgestellten Ziffern darin liegt, dass es die 9 oder 10 %

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in Besitz von I.G. Chemie abzieht (Ilgnor Beweisstück 210, dessen Buch XII A, Seite 61), während die Anklagebehörde in Übereinstimmung mit damaligen Unterlagen \* I.G. Farben und I.G. Chemie zusammenfasste. Einschliesslich I.G. Chemies 9 % hat Ilgnor selbst (in den Rubriken 1941/1945) drei Posten, die zusammen mehr als 50 % ergeben, d.h. Farben 21 %, Bank der deutschen Luftschiffahrt 21 % und I.G. Chemie 9 %.

- (d) Es ergibt sich aus den Vorangehenden, dass die französischen Aktionäre die norwegische Norsk Hydro Koerperschaft zu Beginn des Jahrhunderts aufgebaut hatten, dass sie ohne Unterbrechung die Aktienmehrheit dieses Unternehmens bis zum zweiten Weltkrieg in ihrem Besitz hatten, und dass sie dieser Mehrheit durch Erhöhung des Norsk Hydro Stammkapitals beraubt wurden, wodurch dann die Mehrheit von den Franzosen auf die Deutschen übertragen wurde. Farbens führende Rolle in diesen Verhandlungen wurde nicht bestritten (Ankl. Beweisstück 1201, 1203, 1204, 2000; Ilgnor Beweisstück 196, 197, 211) Der einzige Verteidigungseinwurf in diesen Zusammenhänge ist die angebliche Zustimmung des wirklichen Opfers, d.h. der französischen Aktionäre die angeblich durch die Banque de Paris et des Pays-Bas vertreten wurden. Dieser Verteidigungseinwand wurde besonders von den Angeklagten Ilgnor vorgebracht, der gegen Ende des Prozesses in diesem Zusammenhänge etwa 75 Dokumente unterbreitete, darunter eine Anzahl von eidesstattlichen Erklärungen, einschliesslich seiner eigenen. Da seine eidesstattliche Erklärung (Ilgnor Beweisstück 210) deutlich des Zeugen mangelnde Glaubwürdigkeit beweist, wird dieser Einwand später in den Schriftsatz über die persönliche Verantwortung des Angeklagten Ilgnor behandelt werden. In diesen allgemeinen Schriftsatz beschränken wir uns darauf, die folgenden Tatsachen, die keiner weiteren Erläuterung bedürfen, zu unterstreichen:

- (1) dass bei der Generalversammlung der Norsk Hydro Aktionäre, welche die Erhöhung des Norsk Hydro Stammkapitals und die Beteiligung der Gesellschaft an der geplanten norwegischen Leichtmetall Koerperschaft (später Nordisk Lettmetall genannt) genehmigte, weder

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\* Vergl. z.B. Kerstens Notiz, Ankl. Beweisstück 1203, worin er von den 25 % im Besitz "der Gruppe I.G./I.G. Chemie" spricht.

irgendwelche französische Aktionäre noch deren Stellvertreter anwesend waren (Ilgners Beweisstück 210, Buch XII A, Seite 54);

- (2) dass Ilgners Amt ihnen vor dem Stattfinden der Versammlung mitgeteilt hatte: "Zum Schutze und zur Sicherung der Rechte der französischen Aktionäre ist es nicht unbedingt notwendig, dass sie alle anwesend sind." (Ankl. Beweisstück 2020); \*
- (3) dass sogar am 19. November 1942, d.h. 1 1/2 Jahre nachdem die verhängnisvolle Beteiligung Norsk Hydros an Nordisk Lötmetall und die Erhöhung von Norsk Hydros Stammkapital von Norsk Hydros Aktionären unter Ausschluss der Franzosen genehmigt worden waren - dass sogar zu dieser Zeit die französischen Aktionäre noch unzulänglich unterrichtet waren "ueber die Beteiligung Norsk Hydros an Nordisk Lötmetall" (Eriksens Schreiben an Ilgner, Ankl. Beweisstück 2021).

Als Randbemerkung zu dieser Beurteilung der Norwegen und die französischen Aktionäre betreffenden Auspluenderung mag eine beiläufige Bemerkung hier angebracht erscheinen. Obwohl die hinsichtlich der französischen Aktionäre angewandten Methoden etwas kläger durchdacht waren als die in den Fällen Francolor und Rhone-Poulenc, so spielte doch die Firma Farben mit Hilfe der Nazi-Behörden im Spiel der finanziellen Teilhaberschaften ihre Karten mit der gleichen Anpassungsfähigkeit und mit demselben Erfolge aus. Aus den Aktionären des besetzten Landes wurden untergeordnete Minderheits-Teilhaber; Farben rückte auf zur Stellung eines stärkeren Teilnehmers mit der Aussicht, der führende Aktionär zu werden, wenn Deutschland erst einmal den Krieg gewonnen hätte und damit die Interessen des Reichs "rückprivatisiert" worden würden. Das war Farben's alter Kniff, die beiden Endspitzen gegen die Mitte auszuspielen. Die in der Mitte Befindlichen waren die Angehörigen der besetzten Länder, deren wirtschaftliche Hilfsquellen für die Nazi Wehrmacht ausgebeutet wurden und deren Aktionäre einfach dazu aufgefordert wurden, als "Bauern"-Figuren von geringer Bedeutung in den Dienst des Eroberers zu treten.

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\* Anklage Beweisstück 2020, das fuer sich selbst spricht, und insbesondere die obige Aufzuehrung widerspricht Ilgners Erklaeerung (seine eidesstattliche Erklaeerung, Ilgners Beweisstück 210, Buch XII A, Seite 56), welche dies Anklage-Beweisstück "auslegt".



C. FRANCOLOR.

(14) Hinweis auf den Einleitenden Schriftsatz.

Durch den Francolorvertrag machte sich die Firma Farben zum Beherrscher eines grossen Teils der französischen chemischen Industrie, darunter der gesamten Farbstoffindustrie Frankreichs. In unserem Einleitenden Schriftsatz haben wir auf Grund der in unserem unmittelbaren Falle vorgelegten Beweise gezeigt, wie dieser Vertrag in seiner Planung, seinem Gebiet und seiner Ausführungsart auf Pluenderung hinzielte. Durch die im Beweisvortrag der Verteidigung von beiden, der Verteidigung und der Anklagebehörde vorgelegten Beweise und durch die Eingeständnisse einzelner Angeklagter in ihrer Aussage vor dem Gericht, sind die Beschuldigungen der Anklagebehörde voll erhaertet und bis zur letzten Einzelheit bestaetigt worden. Wir werden hier deshalb das Gesamtbild der Francolorpluenderung nicht noch einmal aufrollen, sondern uns auf unseren Einleitenden Schriftsatz (Seite 36-42) in seiner Vollstaendigkeit beziehen. Da jedoch die von verschiedenen Angeklagten, in der Hauptsache von von Schnitzler, ter Meer, Kugler und Ambros vorgebrachten Verteidigungseinwaende sich decken oder uebereinstimmen, gedenken wir sie in diesem Schriftsatz nur allgemein zu streifen, um spaeter in den einzelnen, die genannten Angeklagten betreffenden Schlussactzen darauf zurueckzukommen.

(15) Haupt "Verteidigungseinwaende" der Firma Farben.

Die Hauptverteidigungseinwaende der Firma Farben koennen folgendermassen zusammengefasst werden:

- A. Farbens "Anspruch auf Fuhrerschaft" beruhte auf geschichtlichen Gruenden und war auf das Gebiet der Farbstoffe begrenzt (Kugler, Protokoll 12702; Kuepper, Protokoll 6047).
- B. Die französischen Industriellen traten den Francolorvertrag freiwillig bei. Es wurde kein Druck auf sie ausgeuebt. (Ter Meer Protokoll 13010, 13012; Kugler Protokoll 12691, 12781, 12816, Kuepper Protokoll 5999).
- C. Die Abschaetzung der französischen Fabriken und der von Farben gezahlte Preis waren hinlaenglich und ausreichend. Die Franzosen hielten es fuer "ausserordentlich vorteilhaft",

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dass der Betrag in Farben Aktien und nicht in Bargeld beglichen wurde (Ter Meer Protokoll 13010; Kugler Protokoll 12695; Kuepper Protokoll 6009, 6010, 6024; von Schnitzler Beweisstück 62, 63, 64, 85).

- D. Der Francolorvertrag erwies sich letzten Endes fuer die Franzosen sehr zufriedenstellend. Die Francolorerzeugnisse wurden weitgehendst auf den inlaendischen franzoesischen Markt gebracht und nur ein geringfuegiger Teil davon wurde nach Deutschland an die Wehrmacht geliefert. (Ambros Protokoll 8010, 8011, 8012, 8014; Kuepper Protokoll 6011, 6022; Ter Meer Protokoll 13006, 13009, 13036, 13038, 13039, 13166, 13215; Ter Meer Beweisstück 247, 414; Ambros Beweisstück 172; von Schnitzler Beweisstück 56, 71, 79, 86).

Die meisten dieser Behauptungen sind vom gesetzlichen Standpunkt ohne Belang. Tatsaechlich sind sie alle, ausnahmslos, durch erdrueckende Gegenbeweise widerlegt worden.

(16) Anmerkungen zu A: "Geschichtliche" Gruende.

Als Entschuldigung fuer ihre Unterjochung der gesamten franzoesischen Farbstoffindustrie und vieler anderer chemischer Gebiete stellte die Firma Farben damals den einen Beweis auf, den sie jetzt noch stets wiederholt: naemlich die Tatsache, dass stichhaltige "geschichtliche" Gruende fuer diesen Schritt bestaenden. Diese gehen zurueck auf die franzoesische Beschlagnahme von Tochtergesellschaften der Farben Stammgesellschaften in Frankreich, nachdem Deutschland den ersten Weltkrieg verloren hatte. Selbst in ihrer schwierigen Lage nach dem Jahre 1940 wiesen die franzoesischen Industriellen darauf hin, dass, wenn dies ein Entschuldigungsgrund waere, sich der Industrien anderer Voelker zu benechtigen, die Franzosen ebenso gut auf die Jahre vor 1871 zurueckgreifen koennten, um die Verhaeltnisse zu ihren Vorteil wiederherzustellen, die damals zwischen deutschen und franzoesischen Industrien bestanden. (Ankl. Beweisstück 1853; Kuepper Protokoll 6031). Ausserdem ist der Beweis erbracht worden dafuer, dass eine der Francolor Stammgesellschaften, St. Denis, in keiner Weise aus der Beschlagnahme der Farben Zweigniederlassungen nach dem Jahre 1918 Vorteil gezogen hatte (Ankl. Beweisstück 1853; Kuepper Protokoll 6031). Die Firma Farben war sich dessen voll bewusst, erstreckte aber trotzdem ihren "Anspruch auf Fuehrerschaft" auch auf St. Denis (Ankl. Beweisstück 1051, Seite 14; Ankl. Bew. 1245, Seite 4). Ausserdem beschränkte sich die Firma Farben in ihrem Anspruch auf den Mehrheitsanteil in der franzoesischen Industrie nicht nur auf das Gebiet der Farbstoffe, ihre unmittelbaren

und Hilfsprodukte (vergl. Kugler, Protokoll 12702), sondern erstreckte diesen Anspruch auch "auf die organischen Chemikalien, die zufällig in den Stammgesellschaften erzeugt wurden." Vergl. Ankl. Bew. 1885; das Protokoll einer Versammlung am 22. Mai 1941 mit ter Meer als Vorsitzendem. Obwohl ter Meer gegen dieses Protokoll einzuwenden hatte, dass der Verfasser desselben "sehr jung" sei (Protokoll 13214), gab er doch zu, dass "der Francolorvertrag damals vielseitiger war" (Protokoll 13041), d.h. dass er mehr als Farbstoffe und ihre Zwischenprodukte umschloss. (Vergl. ebenfalls die Francolor Konvention selbst, Ankl. Bew. 1255, Artikel 18-20 und insbesondere den Schriftwechsel der Angeklagten von Schnitzler und Kugler, Ankl. Beweisstück 2153, Seite 2 hinter Nr. 6, und Ankl. Bew. 2113, erster Abschnitt; Kuglers Versuch einer Auslegung, Protokoll 12829/30). Die sogenannten "geschichtlichen" Gründe sind deshalb nur ein Vorwand (vergl. Kuepper, Protokoll 6033). Davon abgesehen, was immer nach 1918 geschehen war, war längst durch umfassende gegenseitige Uebereinkünfte zwischen Farben und den französischen Farbstofffabriken festgelegt, einschliesslich des Etablissements Kuhlmann und St. Clair-du-Rhone. Nachdem diese Abkommen zehn Jahre lang bestanden hatten, sprach selbst von Schnitzler im Jahre 1937 seine völlige Befriedigung darüber aus, dass diese Verträge

"in diesen zehn Jahren bewiesen haben, wie erfolgreich Deutsche und Franzosen zu gemeinsamen Nutzen zusammenzuwirken verstehen." (Ankl. Beweisstück 1854) .

Tatsächlich waren die "geschichtlichen" Gründe teilweise auf Farbens Uebervorgung der deutschen Ueberlegenheit begründet, was auch von den Angeklagten ter Meer festgestellt wurde, als er Mussolinis Regierung anführte, die der Montecatini Unternehmung das Folgende gesagt hatte: "Erlaubnis, diese Firma zu uebernehmen, werden wir Euch nur geben, wenn Ihr Euch mit den Leuten in der Welt, die von Farbstoffgeschäften etwas verstehen, ins Einvernehmen setzt und das sind die Deutschen" (Protokoll 13047).

(17) Anmerkung zu B. Ausgewählter Druck.

(a) Fuer diese Angeklagten ist der starke Druck, den sie erwiderten, um den Francolorvertrag den französischen Industriellen aufzuzwingen, der wundeste Punkt und auf diesem Gebiet haben wir deshalb die grossten Zweifel an ihrer Glaubwürdigkeit.



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In ihrer Beweisaufnahme hat die Anklage bewiesen, dass diese Angeklagten, und in erster Linie von Schnitzler, ter Meer, und Kugler gegen die französischen Farbstoffindustriellen die Initiative ergriffen haben; dass sie sich die taktischen Massnahmen ausgedacht haben, welche gegen die letzteren angewandt werden sollten; dass sie die Nazi-Behörden, die militärischen sowohl wie die zivilen Stellen, aufgefordert haben, die französische Farbstoffindustrie auszuhungern, und zwar sowohl vor Beginn der "Verhandlungen" wie während der Verhandlungen; dass sie in besonderen ihr Augenmerk darauf gerichtet haben, dass die Industriellen nicht die Erlaubnis erhalten, die Produktion wieder aufzunehmen oder ins unbesetzte Frankreich zu exportieren (vgl. Ankl.Exh., die in Vorlaufenden Memorandum Brief der Anklage, Seite 38 ff. aufgeführt sind). Was die Angeklagten und ihre Zeugen zu ihrer Entlastung vorgebracht haben, (besonders der Angeklagte Kugler, Trans. engl. S. 12691, 12816; vgl. auch ter Meer, Trans. engl. S. 13010; und Zeuge der Verteidigung, Kuepper, Trans.engl. S. 5999), ist so offensichtlich unwahr und ist in den hier vorliegenden Dokumenten so eindeutig widerlegt, dass wir nicht im einzelnen darauf eingehen mochten. In den einzelnen Briefen werden wir uns mit ein paar der hervorstechendsten Widersprüche befassen. In diesem Brief wollen wir nur auf drei Hauptpunkte eingehen.

(b) Aus Zeitdokumenten und aus Zugeständnissen, besonders denen des Angeklagten ter Meer, haben wir erfahren, dass die französische Farbenindustrie nach dem Waffenstillstand in einer verzweifelten Lage war, und dass sich I.G. Farben darüber ganz klar war. Einer der Hauptgründe war der Verlust von Absatzmärkten infolge der deutschen Besetzung oder gar "Angliederung". Nachdem er sich zunächst auf die "sehr schwierige" Lage der französischen Farbstoffindustrie vor dem Kriege bezogen hatte, stellte ter Meer fest:

"Die Geschehnisse des Krieges brachten den Franzosen schwere Absatzeinbussen. Denken Sie nur an den Wegfall von Elsass-Lothringen und der nordfranzösischen Provinzen. Beides wichtige Industrie-Zentren fuer die Textilindustrie, also grosse Farbstoffverbraucher. Dazu waren unausbleiblicherweise Verluste im Export eingetreten."

Vgl. auch ter Meer Trans. engl. S. 7228.

Von diesen Gesichtspunkte aus müssen wir die Massnahmen untersuchen, welche die Angeklagten und ihr Pariser Vertreter, Dr. Kramer<sup>\*)</sup>, nach dem Waffenstillstand ergriffen haben.

\*) Kramer wurde von der Verteidigung nicht in den Zeugenstand gerufen. Dass er hätte aussagen können, beweist die Tatsache, dass er bestätigt hat, dass seine Unterschrift sich auf den Originalen einer Anzahl von Dokumenten, welche die Anklage als Exhibits unterbreitet hat, befand. (PE 1243, 1249).

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In chronologischer Reihenfolge waren die Hauptschritte wie folgt:

- |  |   |  |
|--|---|--|
| <p>29. August bis 5. September 1940<br/>(FE 1241, S. 14)</p> | <p>Die Angeklagten Mann, Kugler und andere suchen verschiedene Nazi-Behörden auf.</p> | <p>"Im gleichen Zusammenhang ist wichtig, dass Dr. Bard (Dienststelle fuer Chemikalien, Bruessel) ueber den Antrag der I.G. die Wiederaufnahme der Fabrikation der franzoesischen Farbenfabriken zunaechst nicht zuzulassen, unterrichtet wurde. Dr. Bard hat zugesagt, bei irgendwelchen Anforderungen von Schwerchemikalien aus den Kuhlmann'schen Fabriken seinerseits eine ablehnende Haltung einzunehmen...."</p>                                 |
| <p>12. September 1940<br/>(FE 1242)</p>                      | <p>Kugler's Brief an Terhaar.</p>   | <p>"...dieser (Dr. Bard) fuer die Bewirtschaftung in den Departements Pas-de-Calais und Nord zustaan- dig ist und dass er ueber den Antrag der I.G. die Wiederaufnahme der Fabrikation der franzoesischen Farbenfabriken zunaechst nicht zuzulassen, unter- richtet wurde. Herr Dr. Bard hat zugesagt, bei irgendwelchen Anforderun- gen von Schwerchemikalien aus den Kuhlmann'schen Fabriken seinerseits ab- lehrende Haltung einzu- nehmen...."</p> |
| <p>28.-30. November 1940<br/>(FE 1886, S. 2).</p>            | <p>Kugler's Bericht an von Schnitzler, ter Meer und andere.</p>                       | <p>"Fuer den Wunsch der I.G. um taktische und materielle Unterstuetzung besteht Verstaendnis (das heisst bei Dr. Michel, Paris). Man ist bereit, ihm zu entsprechen und dafuer zu sorgen, dass die fran- zoesischen Produktions- moeglichkeiten zu mindest nicht verbessert werden, und dass nicht fuer die Produktionsseite Erleich- terungen kommen, die den Handlungswillen der Gegen- seite geringer werden lassen koennten...."</p>               |

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13. Dezember 1940  
(PE 2146).

Dr. Kramer's Bericht  
ueber seine Unter-  
redungen mit Dr. Michel  
und Dr. Kolb.

"Was die Massnahmen auf dem  
Chemie-Sektor anbelangt, so  
habe ich mich davon ueber-  
zeugt, anhand der in den  
letzten Tagen zurueckge-  
wiesenen Exportantraege,  
dass die Absprache, die ich  
Ende letzter Woche mit den  
zustaeendigen Stellen hatte,  
streng eingehalten wird. Es  
wird keine Ausfuhr fuer  
Farbstoffe und andere  
chemische Produkte zur Zeit  
ins unbesetzte Gebiet ge-  
nehmigt." \*)

17. Januar 1941  
(PE 1249, S. 4).

Bericht desselben  
Dr. Kramer ueber  
seine Unterredung  
mit Dr. Kolb und  
Frossard am 14.  
Januar 1941.

"... geht aus allen Be-  
sprechungen hervor, dass  
der Druck der letzten Wochen  
auf den Gang der Fabrikation  
und den Verkauf sich ganz  
besonders nachteilig ausge-  
wirkt hat. So wurden in  
den letzten Wochen die Aus-  
fuhrgenehmigungen fuer das  
unbesetzte Gebiet auf 145  
Tonnen Farbstoffe und  
Zwischenprodukte, ... ver-  
weigert."

18. Februar 1941  
(PE 2147).

Kugler's Brief an  
Dr. Kramer.

"Ihre Haltung, die Sie in  
dem augenblicklichen Zwischen-  
stadium der franzoesischen  
Gruppe gegenueber eingenommen  
haben, wurde im uebrigen in  
allen Teilen gutgeheissen."

28. Februar 1941  
( Schnitzler  
Exh. 52).

Dr. Kramer's Bericht  
ueber seine Unter-  
redung mit Frossard.

"Man sieht, dass er alles  
Interesse daran hat, die  
neue Gesellschaft so rasch  
wie moeglich auf die Beine  
zu bringen, denn der soge-  
nannte Geschaeftsverkehr  
nach der unbesetzten Zone  
sowohl in Farbstoffen wie  
auch in Zwischenprodukten  
ist fuer die franzoesische  
Gruppe nach wie vor unter-  
bunden. Die Fabriken ar-  
beiten immer weniger und er  
brachte zum Ausdruck, dass,  
wenn es noch lange so fort-  
ginge, eine starke Schaedigung  
fuer die ganze franz.-chemi-  
sche Industrie daraus resul-  
tieren wuerde."

\*) Es klingt fast nach Ironie, wenn der Angeklagte ter Meer in Zusammenhang  
mit der damaligen franzoesischen Lage behauptet:

"Die Demarkationslinie zwischen besetzten und unbesetzten Frankreich  
unterband den Verkehr mit den ausfranzoesischen Absatzgebieten...."



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6. Maerz 1941  
(PE 2148).

Aktennotiz, mit Dr. Kuepper's  
Handzeichen ueber eine tele-  
phonische Unterredung mit  
Dr. Kramer.

"Herr Dr. Kramer teilt  
mit, dass er den Pro-  
duktionsminister Puchaux  
gesprachen hat. Der Pro-  
duktionsminister lehnt  
eine 51%ige Beteiligung  
ab.....  
Er (Kramer) sei der An-  
sicht, dass es erfor-  
derlich sei, die franzoe-  
sischen Stellen zunachst  
einmal unter Druck zu  
setzen, bevor man in  
weitere Besprechungen  
eintritt." \*)

Die chronologische Liste zeigt, dass I.G. diese Massnahmen, welche gegen die Schlagader der franzoesischen Farbstoffindustrie gerichtet waren, schon im August 1940 in die Wege leitete. Damit sich die Auswirkungen dieser Massnahmen voll entwickeln konnten, zog I.G. auch den Anfang der Verhandlungen hinaus. (PE 1259; 369; 1243; 2144, S. 2 des Originals). Diese Dokumente sowie die Aussagen des Zeugen der Verteidigung, Kuepper, (Trans. 6035/6) widerlegen die Aussagen der Angeklagten Kugler (Trans. 12683, 12687, 12704) und des Angeklagten ter Meer (Trans. 13057) darueber, wer in der Verzoeigerung der Verhandlungen mit den franzoesischen Indu-  
striellen die Initiative ergriffen habe.

(c) Infolge des ungeheuren Druckes, der daher nachweislich ohne allen Zweifel ausgeuebt wurde, koennen die franzoesischen Industriellen den Vertrag garnicht freiwillig beigetreten sein. Sie machten aus ihrer wirklichen Lage hinsichtlich dessen, was ter Meer jetzt "diesen sehr angenehmen und erfreulichen Vertrag" nennt, (Trans. 13012) gar kein Hehl; vgl. PE 2194, 1248, 2193, 2149, 2150. Die beiden letztgenannten Dokumente beweisen auch, dass I.G. sich vollstaendig in klaren darueber war, was die Ansicht der Franzosen in Wirklichkeit war. Dass der Zeuge der Verteidigung, Kuepper

"nie einen gluecklicheren und zufriedeneren Mann  
gesehen hat als Herrn Frossard; als er in seinem  
riesigen Bueroraum, in der Avenue de George Sand,  
in Paris, in der Ecke an seinem Schreibtisch sass,  
war er ganz der stolze Generaldirektor eines grossen  
Unternehmens; "

ist jedenfalls kein gegenteiliger Beweis. Die Anklage hat keine ueber-  
legte Ansicht ueber Mr. Frossard;

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\*) Fuer Kugler's Versuch einer Erklaerung vgl. Trans. engl. S. 12831/2. Tatsaechlich geht aus PE 1253 hervor, wie schnell und wie erfolg-  
reich dieser Druck angewendet wurde. Derselbe Puchaux, der in-  
zwischen mit Dr. Michel gesprochen hatte, (PE 1253, S. 2) war  
jetzt auf einmal, am 12. Maerz 1941, mit der 51%igen Beteiligung  
der I.G. einverstanden. (PE 1253, S. 4).

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Aber wenn man der damaligen Aussage des Angeklagten Kugler ( PE 1886, S.6), der Aussage des Angeklagten von Schnitzler (PE 1259, S. 11,14) und der Aussage des Zeugen der Verteidigung, Kuepper, ( Trans.Engl.S. 6020: " Ich habe erst vor Kurzem gehört, dass Mr. Frossard der Kollaboration ueberfuehrt wurde und in die Schweiz entfliehen sei") Glauben schenken darf, kann man nicht behaupten, dass er den franz.Standpunkt widerspiegelte, nach die Ansichten der anderen betroffenen Industriellen. Ausserdem haben wir Beweisstuecke in Menge dafuer, dass auch Frossard selbst unter Druck gesetzt wurde ( PE 1243, 1249, 1251).

(d) Die wirkliche Einstellung der beiden Gruppen, die sich an der Francoeler beteiligten, wird noch deutlicher, wenn man die beiden anderen zeitgenuessischen Dokumente miteinander vergleicht. Im Hinblick auf die 51%ige Beteiligung, deren I.G. sich schon im Mai 1941 sicher fuehlte ( PE 125 ), bezeichnete der Meer Francoeler als eine I.G. "Tochtergesellschaft", lange ehe sie auch nur organisiert werden war. ( PE 1885, S. 2 unten). Daher hatte I.G. ein Interesse daran, dass beide Gruppen so viele Rechte wie moeglich auf die Francoeler uebertrugen. Andererseits betrachteten die Franzosen mit Recht die geplante Francoeler nicht als eine franz. Gesellschaft, sondern als ein Werkzeug der Machtpolitik der I.G. Farben, welches ihnen im Zuge der deutschen Besetzung aufgezungen wurde. Sie straubten sich daher so gut sie konnten gegen jede, selbst die kleinste, Erweiterung der Rechte, welche dieser Gesellschaft gewahrt werden sollte. Ihre Ansichten gehen am klarsten aus der zeitgenuessischen Untersuchung hervor, die Dr. Kramer damals unternahm, der dem Angeklagten von Schnitzler am 12. Mai berichtete, dass man auf die franz.Einstellung " die kurze Formel anwenden kann: Alle Pflichten, aber keine Rechte und Sicherheiten fuer die Francoeler." ( PE 2153, Nr. 3);

( 18 ) Bemerkungen ueber C: Preis.

(a) Die Zulaenglichkeit des Entgeltes hat mit der vorliegenden Frage aber auch gar nichts zu tun. Es ist bewiesen worden, ( unter A ), dass die Franzosen nicht bereit waren, sich von ihrem Besitz zu trennen. Von Anfang bis zum Ende, d.h. von der ersten Versammlung mit den Deutschen in Wiesbaden, wo die Franzosen

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die deutsche Forderung ein "Diktat" und den geplanten Vertrag "eine ihnen von I.G. aufgezwungenen Allianz" ( PE 2194) nannten, bis zu der Unterzeichnung des Franceller-Vertrages selbst, als sie mit Erfolg darauf bestanden, dass die berühmte Preamble eingefügt wurde, haben sie ihre Absicht nie geändert. Das Unrecht, welches ihnen dadurch zugefügt wurde, dass ihnen gegen ihren Willen ihr Besitz genommen wurde, kann dadurch nicht wieder gut gemacht werden, dass ihnen ein Kaufpreis, wie hoch oder niedrig er auch sei, gezahlt wurde. Dass sie ihren Besitz an I.G. verlieren wurden, stand fest, ehe sie sich überhaupt mit den Vertretern der I.G. in Wiesbaden zusammensetzten, von den Verhandlungen ueber den sog. Kaufpreis gar nicht zu reden. Schon im Oktober 1944 hatte sich die I.G. die Unterstützung der Nazi-Beherden fuer ihre Politik erworben, wodurch die franzoesische Industriellen den Eindruck gewannen, dass sie ohne die "Hilfe" der I.G. ihre Arbeit nicht wieder aufnehmen werden koennten ( von Schnitzler's Brief an Mulert vom 23. Oktober 1944; PE 1244). In einer eidesstattlichen Erklaerung ueber die erste Wiesbadener Besprechung hat der Angeklagte Kugler spaeter ausgesagt, dass die Franzosen

" nicht annehmen konnten, dass, wenn sie den Fuhrungsanspruch ablehnten, alles beim Alten bleiben werde. Mit anderen Worten: eine Ablehnung des Fuhrungsanspruches schien nicht moeglich."

( PE 1258. Der Wortlaut dieser eidesstattlichen Erklaerung ist fast genau derselbe wie der, der von Kugler damals abgegebenen Aussage, PE 1886, S.2 unten).

Nachdem diese Grundlage einmal geschaffen worden war, konnte die Zulassung des "Kaufpreises", der spaeter festgesetzt wurde, die Lage nicht mehr beeinflussen. Statt auf dieses rechtliche Grundprinzip weiter einzugehen, werden wir uns darauf beschaerken, einen Ausspruch zu zitieren, welchen der Praesident dieses Gerichtes in einem anderen Zusammenhang gemacht hat:

" ..... Wo es ( das Eigentum ) mit Gewalt abgenommen wurde, wurde die Frage ob spaeter eine Bezahlung erfolgte, nicht von grosser Wichtigkeit sein. Ein Mann, der mein Eigentum stiehlt, verwandelt diesen Diebstahl nicht dadurch in eine gesetzliche Handlung, dass er spaeter hergeht und fuer das gestohlene Gut zahlt."

( Tr. Engl.S. 9056/7 ).

( b ) Tatsaechlich war der Kaufpreis nicht angemessen, noch entsprach er den franz. Interessen. Die damals abgefasste Erklaerung von Schnitzlers ueber die deutsch-franzoesische Unterredung vom 16. bis 19. Juni 1941 ( Schnitzler Exh. 58, Buch III, S. 45)



zeigt, dass die Zahl so errechnet wurde, dass es I.G. zu Nutzen gereichen musste:

" Nachdem der Uebnahme aller Verraele der Verkrriegs-einstand zugrundegelegt wird, eine fuer I.G. sehr vorteilhafte Regelung, empfahl sich die grundsaeztliche Annahme des Vorschlages der franz. Gruppe.... ( d.h. hinsichtlich der Bewertung der I.G. Aktien) ...."

... Mit der noch verbleibenden theoretischen Differenz zu Ungunsten der franzoesischen Gruppe findet sich diese in Wuerdigung der obenwaehten Argumente der I.G. ab."

Und auch auf Seite 46:

" Diese Regelung darf als sehr vorteilhaft angesehen werden."

Vgl. auch PE 2153, wovon Seite 3 in diesem Zusammenhang bemerkenswert ist.

Nicht einmal diese verkleinerte Summe jedoch wurde in Bar ausgezahlt. Der wahre Grund hierfuer geht aus Dr. Kuoppers Aussage im Kreuzverhoer ( Trans. Engl.S. 642 ) hervor, wo er bestaetigte, dass

" um keiner Umstaende den Franzosen freies Kapital gegeben werden sollte, um zu verhindern, dass sie neu investieren und hierdurch weitere Unabhaengigkeit von I.G. erlangen wuerden."

Aus diesem Grunde erhielten sie I.G. Aktien, die sie noch dazu nicht verkaufen durften.

( 19 ) Bemerkungen zu D : Francolor-Erzeugung.

(a) Die Erzeugung der Francolor ist nebensaechlich. Waehrend die feindlichen Heere noch im Felde stehen, brachte die I.G. mit der Unterstuetzung der Nazi-Militaerbehorden die franz. Industriellen in eine verzweifelte Lage und zwangen ihnen einen Vertrag auf, wonach sie die Mehrzahl der Aktien in ihren saemtlichen Farbenwerken und Schwesterindustrien aufgeben mussten. Darin besteht der Fluenderungsstatbestand, welcher den Angeklagten in der Anklageschrift zur Last gelegt wird. Die Annahme, dass I.G., nachdem sie ihren Zweck erreicht hatte, die Francolor, die dann ihre Tochtergesellschaft war, fuer Friedensproduktion oder fuer irgendeine andere eintragreiche geschaeftliche Betaetigung unabhengig vom Kriege einsetzte, wuerde das Verbrechen nicht mildern. Es wuerde nur bedeuten, dass die I.G. den Versuch machte, die Fruechte ihres Verbrechens dadurch einzuheimsen, dass die Francolor so eingesetzt wurde, dass ihre Erzeugnisse den hoechstmoeeglichen Gewinn einbrachten. Das entspricht jedoch nicht der Wahrheit. Die Beweisfuehrung hat ergeben, dass die franz. Industrieunternehmen, sobald sie Tochtergesellschaften der I.G. geworden waren,

fast ausnahmslos fuer Deutschlands militaerische Ziele, Deutschlands Wirtschaft, und zur Unterstuetzung seiner Angriffskriege eingesetzt worden sind.

(b) Um die Zusammenhaenge zu verschleiern, hat die I.G. waehrend ihres Prozesses staendig Beschuldigungen angefochten, die wir gar nicht erhoben haben. Die Anklage hat nicht behauptet, dass von der Francolor erwartet wurde, dass sie Pulver, Sprengstoffe oder chemische Kampfstoffe herstellen sollte, oder dass sie diese tatsaechlich hergestellt hat. Das wiederholte Abstreiten durch Ambros, (Trans.Engl. S.8014,8015,8063; ter Meer, Trans.Engl.S. 13038,13215) ist daher gegenstandslos. Tatsaechlich traute die I.G. den besiegten Franzosen nicht genug, um sie mit der Herstellung von Produkten, abgesehen von

"zwar kriegswichtigen, aber nicht besonders geheimzuhaltenden Erzeugnissen" (FE 1907),

zu betrauen. Die Anklage hat auch nicht behauptet, dass die gesamte Erzeugung der Francolor fuer die deutsche Wehrmacht nach Deutschland versandt worden sei, in Wirklichkeit wurde ein Grossteil davon von der deutschen Wehrmacht, dem Heer sowie der Marine, in Frankreich verwandt. (FE 2198, S.1, 3..bs.). Daher sind alle solche Aussagen irrefuehrend, in denen ganz einfach behauptet wird, dass die Erzeugung der Francolor, oder ein grosser Teil davon, "in Frankreich" verblieb (ter Meer, Trans.Engl. S.13039; Ambros, Trans.Engl.S.8059; ter Meer Edh.275; von Schnitzler Edh. 86). Aber wir haben behauptet, und wir haben es voll und ganz bewiesen, dass von Anfang an die gesamte Erzeugung der Francolor den deutschen Interessen unterworfen war (FE 1260, 1907/12, 2198); dass sie hauptsaechlich dazu verwendet wurde, den unmittelbaren Wehrmachtsbedarf sicherzustellen (FE 1337 S.3); dass einige ihrer Werke in "ausgesprochene Munitionsfabriken" verwandelt wurden (vgl.bzgl.St.Denis, FE 1909,S.4); und dass I.G. selbst den Nazi-Militaerbehoerden Vorschlaege machte wie die Francolorwerke zur Foerderung der deutschen Kriegswirtschaft am besten eingesetzt werden koennten (FE 1907, 1909, 1910, 1911). Dadurch, dass die Francolorwerke also fuer diejenigen Anforderungen des deutschen Heeres eingesetzt wurden, fuer welche nur wenig Facharbeit und Geheimhaltung, aber viel Arbeit benoetigt wurde, bemuehte sich I.G., wie der Angeklagte Ambros am 16. April 1942 an das Oberkommando der Wehrmacht schrieb:

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"... gleichzeitig unseren deutschen Arbeitseinsatz fuer die militaerisch entscheidenden Betriebe des Treibstoff-, Buna und Pulverprogramms weitgehend frei zu machen.  
Ich verbleibe mit

Heil Hitler !  
Ihr ergebener  
Dr.O. Ambros". (PE 1906)

Vergleiche auch von Schnitzler's Brief aus der gleichen Zeit an Dr.Ritter:

"... die Francolor-Werke -insoweit sie im besetzten Gebiet liegen-, heute weitgehend unmittelbar fuer die Ruestungswirtschaft- auf dem Gebiet organischer Zwischenprodukte taetig sind und dass die ausserdem heute nur im begrenzten Umfang betriebene Erzeugung von Farbstoffen letztlich auch der Ruestung dient, indem sie in erster Linie die fuer die deutsche Ruestung in Frankreich taetige Textil- usw. Industrie mit Farbstoffen beliefert, die wir sonst in Deutschland mit deutschen Rohstoffen und unter Mitverwendung von deutschen Arbeitern herstellen muessen." (PE 1337, S.3).

(c) Da die ganze Angelegenheit nebensaechlich ist, wollen wir auf die Erzeugung der Francolor in diesem Brief nicht naeher eingehen. Wir wollen uns auf die eingehendste Aufstellung der Erzeugung der Francolor beschaenken, wie sie in der eidesstattlichen Erklaerung des Abteilungsleiters der I.G. in Leverkusen, Berthold Wenk (tor Meer Exh.247, sein Dokument No.72, Buch III, S.64 u.F.) in Abschnitt 3-5 enthalten ist. Wir moechten daran erinnern, dass Wenk eine Aufstellung der Francolor macht, nachdem er festgestellt hat, dass

"der klare Wille bestand, die franz. Werke auf einen neuzeitlichen, der I.G. entsprechenden modernen Stand zu bringen;"

und dass er besonders dem Angeklagten tor Meer zuschreibt, er habe "seine besondere Genehmigung " dazu gegeben, dass die Francolor die Verfahren und Erfahrungen in Zusammenhang mit der Herstellung dieser Erzeugnisse erhalten solle. Auf den folgenden Seiten geben wir eine Aufstellung der einzelnen Erzeugnisse in der von Herrn Wenk gewaehlten Reihenfolge (ohne Wiederholungen), wobei wir neben jedem Erzeugnis angeben, zu welchen Zwecken die Erzeugnisse, aufgrund der zeitgenoessischen Dokumente, tatsaechlich verwendet wurden.



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- (1) Farbatoffei \*)  
Tarnungs- und SS- Boderf; auch fuer  
das deutsche Heer.  
(PE 1914, Seite 1 unten und Seite 2,  
PE 1337, Seite 3).
- (2) Monochlorsäure  
Unmittelbarer und mittelbarer Heeres-  
bedarf.  
(PE 1907, S. 2  
1908, S. 4  
1909, S. 2  
1912, S. 1)
- (3) Vulkanisationsbeschleuniger  
(Katalysatoren) Mittelbarer Heeresbedarf.  
(PE 1909, S. 2).
- (4) Mononitronaphtalin  
Unmittelbarer und mittelbarer Heeres-  
bedarf.  
(PE 1908, S. 4  
1909, S. 2  
1912, S. 1  
2198, S. 1.  
Siehe auch PE 2197).
- (5) Kauritlein  
(Kauritlein wird auch  
von Loehr betont, ter  
Meer Exh. 275, Dok. 96,  
Band XIV, S. 16) Unmittelbarer und mittelbarer Heeres-  
bedarf.  
(PE 1907, S. 2  
1908, S. 4  
1909, S. 2  
1912, S. 2).
- (6) Alkydharze  
Unmittelbarer und mittelbarer Heeres-  
bedarf.  
(PE 1907, S. 2  
1908, S. 4  
1909, S. 2  
1912, S. 2, 4).  
Deutsche Kriegsmarine.  
(Ambros Exh. 172, Dok. No. 801, Band  
VIII A, S. 5, Punkt 6).  
prahlt ter Meer besonders mit ihrer  
erhoehten Produktion bei Frankolor  
(Prot. 13037). Tatsaechlich wurden  
sie fuer das Programm der deutschen  
Kriegsmarine verwendet (PE 2198, S. 3).
- Bezuglich der Kunsthharze
- (7) Phthalsäure  
Deutsche chemische Industrie.  
(PE 1909, S. 4).  
(Auch in Wenks eidesstattlicher Er-  
klaerung unterstrichen, Ambros Exh.  
173, Dok. Buch VIII A, S. 6).
- (8) Formaldehyd  
Unmittelbarer und mittelbarer Heeres-  
bedarf.  
(PE 1908, S. 4  
1912, S. 2).
- (9) (Schadlingsbekämpfungsmittel)
- (10) Pentaerythrit fuer Kunst-  
harze Bezuglich Kunsthharze siehe oben No. 6.  
Bezuglich Pentaerythrit: Unmittel-  
barer Heeresbedarf, (PE 1909, S. 2).
- (11) Pigmentgruen Mittelbarer Heeresbedarf. (PE 1907, S. 2).
- (12) Fettalkohole Mittelbarer Heeresbedarf und Kehrl-  
Schieber Plan. (PE 1912, S. 3).

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- (13) Textilhilfsprodukte: Mittelbarer Heeresbedarf.  
(auch von Loehr unter- (PE 1909, S. 2,  
strichen, ter Meer Exh. 2198, S. 4 unten).  
275, Dok. No. 96, Bd.  
XIV, S. 15 unten).
- (14) Ranagit: Mittelbarer Heeresbedarf.  
(PE 1907, S. 3).  
Kehrl-Schieber Plan  
(PE 1912, S. 3).

Die Liste spricht fuer sich selbst. Dazu kommen noch die Produkte, die von Wenk nicht erwahnt wurden und von denen Ambros und ter Meer zugeben, dass sie fuer das deutsche Heer erzeugt wurden. Es sind dies Zentralit und Diphenylamin (Tr. 13038). Wie vollstaendig die Francolor-Betriebe in das deutsche Aufruestungsprogramm eingegliedert waren und einen Teil davon darstellten, wird auch durch PE 1887, 1911, 1912, 1914, 1915, 2197 und 2198 gezeigt. Auf Grund dieser Tatsachen koennen wir die diesbezugliche Frage richtig einschaeitzen und beantworten, die jenen Teil von ter Meers Kreuzverhoer abschliesst, der sich auf die Produktion bezieht:

- "F. Ist es mit Ruecksicht auf die Erklaerungen, die Sie ueber die Francolor Produktion waehrend des Krieges abgegeben haben, nicht vollkommen richtig, zu sagen, dass dieses Produktionsprogramm in Frankreich und so, wie es in Frankreich durchgefuehrt wurde, direkt und unzweideutig mit dem Kriegsproduktionsprogramm in Zusammenhang stand ?
- A. Jawohl. (Protokoll S. 7297-98, engl. Trans. 7238; vergleiche ter Meers Er-laeuterung, Tr. 13214, 13215).

Ter Meers eindeutiges Zugestaendnis deckt sich vollkommen mit dem Briefe, den der von der Wehrmacht bestellte Kommissar fuer Schiesspulver und Sprengstoffe in Frankreich zur gleichen Zeit, naemlich am 17. Maerz 1942 an das Oberkommando der Wehrmacht richtete. Er erlaeutert "die Verwendung der Francolor-Betriebe fuer die unmittelbaren und mittelbaren Beduerfnisse der Wehrmacht" und die Anregungen der I.G. "in Uebereinstimmung mit dem Vorschlag des Heereswaffenamts vorzugehen" und kommt dabei zu dem Schluss, dass "das gesamte Personal der Francolor-Betriebe, 3500 Arbeiter und Angestellte, mit der Erzeugung von Material fuer Deutschland beschaeftigt sein wird." (PE 1909, S. 3 unten). Eine Kopie dieses Briefes wurde den Angeklagten Ambros, ter Meer und von Schnitzler und ueberdies auch den Herren Wenk und Roell, deren eidesstattliche Erklae-rungen ueber die Produktion von Francolor von der Verteidigung einge-fuehrt wurden, uebersandt.

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D. RHONE - POULENC.  
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(20) Standort in besetzten Frankreich.  
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Die in diesem Zusammenhang gebrauchten Worte "Rhône-Poulenc" bedeuten den führenden pharmazeutischen Konzern Frankreichs: Société des Usines Chimiques Rhône-Poulenc, Paris (PE 1262, S. 1). Seine Zentralverwaltung befand sich in Paris (PE 2095, S. 5; auch Neue Ordnung Frankreich, PE 1051, S. 16). Er betrieb eine Anzahl Fabriken in ganz Frankreich, darunter Vitry-sur-Seine, besetztes Frankreich, und St. Fons-Rhône, unbesetztes Frankreich, (PE 1262, S. 2). Das Lizenzuebereinkommen vom 30. Dezember 1940, (PE 1271), das wir der Fluenderung gleichsetzen, bezieht sich auf alle Erzeugnisse von Rhône-Poulenc, die darin erwähnt sind, ohne Unterschied der Produktionsstätte.

Wenn wir von der Fluenderung, von "Rhône-Poulenc" sprechen, meinen wir auch das Theraplix Uebereinkommen (PE 1262), durch welches die I.G. offiziell einen Anteil von 49% und versteckt einen weiteren von 2% in der Firma

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Ihre Bueros befanden sich in Paris, ihre Fabrik in Montrouge-sur-Seine, einer Vorstadt von Paris (Mann Exh. 247, S. 4). Sowohl die Zentralverwaltung als auch der Hauptbetrieb waren daher in besetzten Frankreich gelegen.

Angesichts der ausfuhrlichen Zeugenaussage des Angeklagten Mann ueber Rhône-Poulenc und der mehr als hundertdreissig Dokumente, die er in Verbindung damit einfuehrte (seine Baende IV-VI, Exh. 176 bis 309), werden wir unser Vorlaeufiges Memorandum und Schriftsatz in einigen Hauptpunkten ergaenzen.

(21) Keine besonderen Regierungsbefehle fuer Bayer  
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etwas zu tun.  
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Zu allererst: Weder die I.G. im allgemeinen noch der Angeklagte Mann persoenlich hatten irgendwelche Regierungsauftraege, an Rhône-Poulenc heranzutreten; siehe Werner Schmitz, der fuer Mann eine eidesstattliche Erklaerung abgab, Tr. 13731/3;



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Grobel Tr. 11843, 11855 und Manns eigenes Zugeständnis:

"Einen eigentlichen Auftrag der Regierung, d.h. Weisung, die sich speziell auf den Fall Rhone-Poulenc bezog, hatte ich nicht....."  
Tr. 10421, Prot. S. 10555.

Dank diesem Zugeständnis wissen wir nun, dass Herr Mann die Tatsachen entstellte, als er Rhone-Poulenc gegenüber vorgab, dass er "in Auftrag" der Nazi-Regierung gekommen sei und

"Herr Generalkonsul Mann gab daher bekannt, dass er seinen Auftrag als gescheitert an die deutschen Behörden zurückgeben müsse."  
(FE 1269; siehe auch FE 2093, S. 2).

(22) Aufhetzen der Regierung gegen Rhone-Poulenc.  
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Die Naziregierung hatte in Wirklichkeit kein besonderes Interesse an Rhone-Poulenc. Um zumindest die Zustimmung der Nazi-Behörden zu erlangen, musste die I.G. sie gegen Rhone-Poulenc aufhetzen durch abfällige Bemerkungen über die Tätigkeit von Rhone-Poulenc und wissenschaftlichen Stand des Konzerns (FE 2094, S. 2). Dass derartige Bemerkungen, im Widerspruch sowohl zu den objektiven Tatsachen als auch zu der persönlichen Überzeugung des Angeklagten Mann, gefallen sind, kann aus einem Vergleich zwischen Manns Aussage gegenüber Mulert (RWM) vom 1. Oktober 1940 (FE 2094, auf die gerade Bezug genommen wurde) einerseits und Manns Aussage vom 31. März 1947 (FE 2093, S. 2) erschen werden. Diese Widersprüche werden im Detail in dem Einzelschriftsatz über den Angeklagten Mann diskutiert ( unten, Teil VI, R).

(23) Unehrlichkeit in den Geschäften mit Rhone-Poulenc.  
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Die Unehrlichkeit der I.G. in den Geschäften mit Rhone-Poulenc nach Frankreichs Zusammenbruch wird sogar noch auffälliger, wenn wir Rhone-Poulencs Brief an Bayer vom 5. Februar 1934 in Betracht ziehen (Mann Exh. 182; siehe auch Prot. 10397/8). Dies ist vielleicht das bemerkenswerteste Dokument im Fall Rhone-Poulenc, da es die vorbildliche

Fairness Rhone-Poulencs gegenüber Bayers Erfindungen und umgekehrt die vollständige Grundlosigkeit der Angriffe Bayers gegen Rhone-Poulenc im Jahre 1940 zeigt. Diese Taktik, die bestrebt war, die Unterstützung der Nazi-Regierung gegen Rhone-Poulenc zu gewinnen, spiegelt sich am besten in Manns Exh. 188,

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das ein Dokument aus jener Zeit darstellt. Werner Schmitz unterstreicht dort, dass die "Verletzungen Rhone-Poulencs betreffs Nachahmung" in dem Bericht der I.G. an die Nazi-Ministerien, der sich mit einem Patentgesetz, zu dem Frankreich gezwungen werden sollte, befasst, wohl zu stark betont sind (Unterstreichungen von uns). Schmitz hat versucht, dies zu erklären: Protokoll 13729.

(24) Keine Anordnungen allgemeiner Natur der Nazi-  
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Regierung.  
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Die Nazi-Regierung sah nicht nur davon ab, besondere Anordnungen bezüglich Rhone-Poulenc zu erlassen, es gab auch keine allgemeinen "Anordnungen" oder "Richtlinien", welche die I.G. die Notwendigkeit zum Vorgehen empfinden lassen konnten. Die Verteidigung brachte Richtlinien Goerings vom 3. August 1940 vor (Mann Exh. 195). Indessen unterstreicht der offizielle Begleitbrief der Nazi-Regierung zu diesen Richtlinien, dass sie sich nicht auf Frankreich beziehen (Mann Exh. 195). Die Anklagebehörde ihrerseits legte die vorhergehenden Richtlinien Goerings vom 19. Juni 1940 vor, (PE 1239), in denen er sagte:

"Die Bestrebungen der deutschen Industrie, Betriebe in dem besetzten Gebiet jetzt schon zu übernehmen, müssen schärfstens abgelehnt werden. Eine Einreise von Industriellen in das besetzte Gebiet darf vorläufig nicht zugelassen werden." (PE 1239).

Weder Schlotterer, auf dessen Zeugenaussage sich die Verteidigung in diesem Zusammenhang bezieht (Mann Exh. 197), noch der Angeklagte Mann kann dazu etwas hinzufügen.

(25) Einschuechterungstaktik.  
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So sehen wir von dieser Grundlage die von Mann und den anderen beteiligten Vorstandsmitgliedern eingenommene Haltung in rechten Lichte. Ihr Wunsch war es, Rhone-Poulenc einzuschuechtern, doch wollten sie gleichzeitig als Gentlemen und als Freunde der franzoesischen Firma erscheinen, die in dem Versuch, sie gegen ihre eigene deutsche Regierung zu verteidigen, ihr Bestes zu tun versuchten. Aus diesem Grunde versteckte sich Mann hinter "Befehlen" (PE 2093) und "Auftragen" (PE 1269), die ihm die Nazi-Regierung erteilt hatte, wusste aber sehr wohl, dass sie nicht existierten (Prot. 10421). Aus diesem Grunde unterstrich seine der Firma Rhone-Poulenc unterbreitete Mitteilung an Faure-Beaulieu (Prot. 10414) auch, dass mit Rhone-Poulenc

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"In Uebereinstimmung mit dem Wirtschaftsamt Paris  
(Chef Ministerialdirigent Dr. Michel, fuer Chemie  
Referent Kriegsverwaltungsamt Dr. Kolb) ....."  
Mann Exh. No. 203, Dokumentenbuch IV, S. 58,  
Dok. No. 355,

Fuehlung genommen wurde und dass Faure-Beaulieu auch fuer die unbesetzte  
Zone Paeasse erlangen konnte (Mann Exh. 203 und FE 1265). Faure-Beaulieu  
sagte Rhone-Poulenc auch in Manns Namen, dass Frankreich durch die  
Nazi-Regierung zu einem Patentgesetz nach Art des deutschen gezwungen  
werden sollte (Mann Exh. 203, No. 4 und 5): In der Tat wurde damals keine  
derartige Idee der Regierungsbehoerden laut. Die I.G. und nur die I.G.  
war es, welche die Regierung dazu anfeuerte, die Franzosen zu einem  
solchen Gesetz zu zwingen. (Die neue Ordnung der I.G., FE 1051, S. 17;  
Brief der I.G. an das deutsche Justizministerium, FE 1267; an ausge-  
sprochensten wohl FE 1268; Antwort des Ministeriums, Mann Exh. 184).  
Um diese Drohung wirksamer zu machen, gab Mann auch an:

"Es ist auch damit zu rechnen, dass in Friedensvertrag  
eine Regelung fuer die zurueckliegende Zeit erfolgen  
wird und eine gewisse Entschaeidung denjenigen deut-  
schen Firmen zukommen wird, die durch franzoesische  
Nachahmungen geschaedigt worden sind.  
(Mann Exh. No. 203, Dokumentenbuch IV, S. 58/59,  
Dok. No. 355) .

Wiederum konnte die Verteidigung kein aus jener Zeit stammendes Dokument  
vorlegen, das anzeigen wuerde, dass die deutsche Regierung einen solchen  
Schritt geplant habe. - Der Anfang und das Ende dessen, was Faure-  
Beaulieu den Franzosen nach seiner eigenen Mitteilung an Mann sagte,  
war die Drohung mit dem zukuenftigen Friedensvertrag und "seinen Buor-  
den" (FE 1264, No. 1 und 3). Charakteristisch fuer die Taktik der I.G.  
ist es, dass sie die Nazi-Regierung als Schreckgespenst benutzte und  
behauptete, dass die Nazi-Regierung einschneidende Massnahmen im Auge  
habe, waehrend in der Tat die I.G. nur zu sehr darauf aus war, sie zu  
veranlassen.

Rhone-Poulenc verstand sehr wohl, was Faure-Beaulieu  
und Mann andeuten wollten. (FE 1265).

(26) "Aufhebung" fruherer Vertraege.

Das Hindernis bestehender Vertraege zwischen Rhone-  
Poulenc und Bayer wurde leicht ueberwunden. Diese Vertraege wurden ein-  
fach als null und nichtig angesehen. Die Verteidigung fuehrte Mann Exh.  
275 und 276 ein und gab damit zu verstehen, dass es die Politik der Nazi-  
behoerden war, Vertraege zwischen Deutschen und feindlichen Staatsbuergern



als durch den Krieg annulliert zu betrachten. Mit unserer Kenntnis der Nazi-Regierung koennen wir wohl sagen, dass dies sicherlich zur Nazi-Politik passte. Indessen wartete die I.G. nicht, bis die Nazi-Regierung den Ausdruck verlieh. In der Tat zeigt das Mann Exh. 276, dass die ersten Richtlinien, die die Regierung herausgab, vom 14. Dezember datiert waren. Lange bevor die Nazi-Behoerden irgendeine eigene Meinung hatten laut werden lassen, schlug die I.G. selbst im pharmazeutischen Teil ihres Berichtes "Neue Ordnung" vom Juli 1940 vor, dass die Uebereinkommen Bayers mit Rhone-Poulenc wegen des Krieges "aufgehoben" werden sollten, da sie "unter politischen und wirtschaftlichen Umstaenden geschlossen worden waren, die sich von den jetzigen unterscheiden". (PE 1051, S. 40).

(27) Beischaffung von Regierungsdruck.  
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Da Bayer einer "guenstigen" Reaktion von Seite Rhone-Poulencs nicht sicher war, draengte die Firma die Regierung, ihr beizustehen und fuer offiziellen Druck zu sorgen, wenn er benoetigt werden sollte. Schon im August 1940 begann Mann mit allen Zweigen der Nazi-Regierung, sowohl zivilen wie militaerischen, in Fuehlung zu treten, die moeglicherweise einen rechtlichen Einfluss haben konnten. Man versprach ihm, fuer den Druck, nach dem er Verlangen trug, zu sorgen (PE 1241, S.8; PE 1263; PE 1886, S. 1). Bayer hatte auch ein Memorandum vorbereitet, das vorschlug, dass die Produktion von Rhone-Poulenc unter dem unmittelbaren Einfluss der Militaerregierung stehen sollte. Dies sollte durch ein sogenanntes "Bevollmaechtigungsverfahren" geschehen, d.h. eine Art Lizenzsystem. Ein derartiges Verfahren wurde im Francolorfall mit grossen Erfolg durchgefuehrt. Obwohl die Nazis zoeagerten, dieses Verfahren gegen die Firma Rhone-Poulenc, deren Anlagen sich in der unbesetzten Zone befanden, anzuwenden, unterbreitete die I.G. auf jeden Fall ihr Memorandum, das ihre diesbezuglichen Vorschlaege enthielt. (Vgl. PE 1241, S.8). \*)

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- \*) Mann stellte bei seiner Befragung fest, dass dieses Memorandum  
"....zweifelloos der VOWI-Bericht, der bereits gestern behandelt wurde und der als Exhibit 1262 eingebracht war und der wahrscheinlich Herrn Michel ueberreicht wurde, um ihm einen gewissen Begriff ueber die Firma Rhone-Poulenc ....." (Tr. 10410, Prot.S. 10545) war.

Tatsaechlich gestattet der im Protokoll gebrauchte Text kein Herumdeuteln:

".....Trotzdem wurde dem Kriegsverwaltungsrat Bolek fuer Informationszwecke der Text des I.G. Memorandums, das wegen des Bevollmaechtigungsverfahrens an Neef (Oberleutnant im Wehrwirtschafts- und Ruestungsamt) gesandt worden war, uebergeben." (PZ 1241, S. 8, Unterstreichungen von uns).

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Beim Abwägen des I.G. Dokumenten-Materials aus jener Zeit bezüglich Manns Versuchen, Regierungsdruk gegen Rhone-Poulenc zu erlangen, sollten wir uns der Aussage des Zeugen der Verteidigung, Werner Schmitz, der bei den Konferenzen anwesend war, erinnern:

"Dieses Protokoll diene ausschliesslich internen Zwecken. Sie dienten zur Unterrichtung anderer Abteilungen im Hause. Das Protokoll ist gegangen an ..... Herrn Mann, auch an Prof. Hoorlein."  
Tr. 13861, Prot. S. 14095.

Dies heisst, dass das Dokumentenmaterial der I.G. ueber diese Verhandlungen bestimmt nicht nur "eine Schaufensterattrappe" war, sondern dass es den Verlauf der Dinge richtig beschreibt (siehe auch Mann Exh. 219, letzter Absatz).

(28) Bezug auf das Vorlaeufige Memorandum und  
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Schriftsatz.  
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Was die I.G. bei Rhone-Poulenc erreichen wollte, trug in der Tat solche Charakterzuge, dass die I.G. nicht umhin konnte, Drohungen und Einschuechterungstaktiken zu gebrauchen. Rhone-Poulenc hatte zwar keines der Rechte der I.G. verletzt (siehe Manns Zugestaendnis FE 1283); es bestanden auch gueltige Uebereinkommen zwischen Bayer und Rhone-Poulenc (Tr. 13734); die Nazi-Regierung hatte keinerlei besonderes Eigeninteresse in dieser Angelegenheit gezeigt; alledem zum Trotz wuenschte Bayer die Unterwerfung von Rhone-Poulenc. Was die von Bayer unternommenen Einzelschritte und das erzielte Ergebnis anlangt, so koennen wir uns auf unser Vorlaeufiges Memorandum und Schriftsatz (S. 42 - 47) beziehen. Es wurde gezeigt, dass die I.G. auf Grund der sogenannten Lizenzvereinbarung vom 30. Dezember 1940 (FE 1271) der Firma Rhone-Poulenc 43 Millionen franzoesische Francs entzog und dass die Rhone-Poulenc eine gemeinsame Verkaufsgesellschaft aufzwang, in der die I.G. sogar dank eines betruegerischen Schachzug die Aktienmajoritaet erwarb. Wir werden uns hier darauf beschraenken, die von der I.G. zur Verteidigung vorgebrachten Argumente zu eroertern.

(29) Verteidigungseinwaende der I.G.  
Die "Verteidigung" mag in Kuerze folgendermassen zusammengefasst werden:  
A. Die sogenannte Lizenzvereinbarung vom 30. Dec. 1940 muss zusammen mit den zwei folgenden Vereinbarungen vom



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28. Maerz 1941 (PE 1275) und 19. Februar 1942 (PE 1282); Protokoll 10417, 10423, 10660 angesehen werden. Als Ganzes betrachtet, waren die drei Uebereinkommen deutlich reziprok (Prot. 10660) und zum grossen Vorteil von Rhone-Poulenc (Prot. 10423, 10427; Mann Exh. 236, 237, 239, 251, 252, 255, 256). Die I.G. verzichtet auf ihr "grosstes Geschaeft in Frankreich, naemlich das Aspiringeschaeft" (Prot. 10243) und "verzichtete vollkommen" auf ihre "unabhaengige kaufmaennische Taetigkeit" in Frankreich (Mann Exh. 252, Prot. 10430).

B. Besonders das zweite Uebereinkommen vom 28. Maerz 1941 enthielt Bayers Anschauung ueber das Lizenzuebereinkommen und ist das "Kernstueck" der gesamten Gruppe von Vertraegen zwischen Bayer und Rhone-Poulenc (Prot. 10430; Mann Exh. 238).

C. Theraplix wurde auf das spontane Ersuchen von Rhone-Poulenc selbst als gemeinsame Verkaufsgesellschaft gewaehlt (Mann Exh. 256).

(b) Die I.G. erwarb nicht eine Beteiligung von 51% an Theraplix, sondern nur 50%, wie mit Rhone-Poulenc vereinbart (Prot. 10443; Mann Exh. 262).

(c) Theraplix hatte so viele Vorteile von der Beteiligung Bayers, dass die Gewinne der Firma sich von 5 Millionen Francs im Jahre 1941 auf 20 Millionen Francs im Jahre 1943 steigerten (Prot. 10437 und Mann Exh. 255).

D. Rhone-Poulenc selbst erfreute sich waehrend des Krieges der Mitarbeit der I.G. und bestaetigte dies der I.G. wiederholt in der hoeeflichsten Weise (Mann Exh. 219, 236, 257, 297, 298, 299, 300, 301, etc.).

Wir schlagen vor, in Kuerze zu untersuchen, wie gut eine solche Verteidigung und auch, so weit noetig, wie gut das Beweismaterial zu ihrer Erhaertung ist, das eingefuehrt wurde. Indessen scheint eine allgemeine Bemerkung angemessen, bevor wir auf Einzelheiten eingehen. Die Verteidigung stuetzt sich in der Hauptsache auf Werner Schmitz. Der Angeklagte Schmitz hat 11 eidesstattliche Erklaerungen von Schmitz eingefuehrt (Mann Exh. 154, 178, 185, 198, 200, 201, 211, 214, 238, 251, 279). Werner Schmitz arbeitete mit dem Angeklagten Schmitz in seinem Buero in Leverkusen eng zusammen. Er behandelte besonders die Rhone-Poulenc Angelegenheit. Das Kreuzverhoer zeigte die Unzuverlaessigkeit von Schmitz's eidesstattlichen Erklaerungen, die in allen Hauptpunkten ganz irrefuehrend sind. Vergleiche besonders Prot. 13725/6; vergleiche auch Prot. 13731 mit Prot. 13733.

Vergleiche auch Trans. Engl. Seite 13728/9, 13864, 13867, 13872.

(30) Bemerkung zu A: Angebliche Gegenseitigkeit.

( a ) Es ist ganz klar, dass Bayer das Lizenzabkommen als eine Entschädigung fuer vorhergegangene Ereignisse ansah. Seine Auswirkungen waren einseitig zu Nutzen Bayers und nicht gegenseitig. Bayer hat das auch wörtlich so ausgedrueckt, als sie damals die "Grundlage" des Abkommens beschrieb und dazu sagte: " die I.G. sahe es als eine Entschädigung fuer vergangene Entwicklungen an".- Der Versuch der Rhone-Poulenc, "in ein gewöhnliches gegenseitiges Abkommen umzuwandeln ...., wurde zurueckgewiesen." ( PE 2167; vergl. auch Manns Zugestaendnis, Trans. Engl.S. 10426). Der Charakter des Abkommens geht am klarsten aus dem Enthusiasmus hervor, mit dem es von Dr. Michel und Dr. Kolb, die die Vertreter der nationalsozialistischen Militaerregierung in Frankreich waren, begruesst wurde. Wir duerfen nicht vergessen, dass es Michel war, der die Ansicht vertreten hatte

" dass die gegebene historische Chance, die franzoesische Wirtschaft durch entsprechende Eingriffe in den franzoesischen Wirtschaftskorper auf Deutschland auszurichten, voll und ganz genutzt werden muesse,"  
( PE 1241, S. 5 ),

Es waren derselbe Michel und Kolb, die

" uns ihre Glueckwuensche zum Abschluss dieses Vertrages aussprachen, der ihnen sowohl inhaltlich wie formell aeusserst gluecklich erschien ( sic! ) und, wie mir gesagt wurde, den ersten positiven Abschluss dieser Art darstellt." ( Mann Exhibit 275).

( b ) Nach der Ansicht der I.G. Farben sollte das zweite Abkommen ( PE 1275 ) nicht im Zusammenhang mit dem Lizenzabkommen abgeschlossen werden und Rhone-Poulenc hat es auch nicht so aufgefasst. Wie aus I.G.s Brief vom 18. Dezember 1941 ( Mann Exhibit 213, Mann Dck. Buch Nr. 4, S. 90) hervorgeht, hatte sich Rhone-Poulenc bereits dem Lizenzabkommen gefuegt, als die I.G. sich um noch engere "Zusammenarbeit" bemuehte. Die I.G. verband ihren Vorschlag wieder mit der Forderung einer Kapitalbeteiligung an Rhone-Poulenc ( Mann Exh. 213. Werner Schmitz, Mann Exh. 238, Nr. 2, und Transkr. Engl. S. 13723 ist daher irrefuehrend; vergl. auch Grobel, Transkr. Engl. S. 11849, 11853 ). Wieder wurde erwahnt, dass die deutsche Regierung den "aufrichtigen und dringenden Wunsch einer engeren Zusammenarbeit"

seitens der I.G. ( Mann Exh. 213, Dck.Buch 4, S. 9 ) willkommen heisse. Tatsaechlich geht es aus dem Wortlaut des Lizenzabkommens ganz klar hervor, dass Bayer damals wuenschte, dass das neue Abkommen Rhone-Poulenc auf deutschen Wunsch aufgezwungen werden sollte, und dass es nicht zur EntschaeDIGUNG fuer das Lizenzabkommen abgeschlossen werden sollte. Im Par. 14 des Lizenzabkommens ( PE 1271, S. 4a ) heisst es:

" Der Abschluss des vorliegenden Abkommens praepjudiziert nicht die deutsche Forderung auf organisatorische Massnahmen fuer eine Marktregelung, wie sie von deutscher Seite fuer notwendig erachtet wird."

Trotz ihrer diplomatischen Verkleidung sind diese Worte eindeutig genug. Noch eindeutiger werden sie, wenn man Bayers ersten Entwurf sieht, in welchem dieser Paragraph, ohne der obige Wortlaut an seine Stelle trat, wie folgt lautete:

" Der Abschluss des vorliegenden Abkommens beseitigt nicht das grundsaeztliche deutsche Verlangen auf wirtschaftliche Verflechtung." ( PE 2321 und Aussage Grobel, Transkr. 11848 ).

Manns/Hauptzeuge Werner Schmidt leugnet nicht, dass die "grundlegende Besprechung betreffs Abkommen II" erst am 25. Februar 1941 stattfand, d.h. zwei Monate nach Abschluss des ersten Abkommens. ( Mann Exh. 238. Sein Versuch einer Erklaerung im direkten Verhoer ( Transkr. Engl.S. 13723 ) wird durch PE 1269, dessen Verfasser er ist, widerlegt. In diesem Zusammenhang ist Grobels Aussage, Transkr. Engl.S. 11855 mit der Ergaenzung in Transkr. Engl.S. 11858, besonders bemerkenswert.

( c ) Was das angebliche Opfer anbelangt, welches Bayer dadurch darbrachte, dass sie auf den Verkauf ihrer Erzeugnisse in Frankreich unter dem Bayer Kreuz, besonders mit Bezug auf Aspirin, verzichtete, moechten wir uns hier nur auf eine Feststellung des Angeklagten Mann beziehen:

" ..... das pharmazeutische Geschaef in Frankreich immer so gelegen hat, dass praktisch deutsche Produkte keine Aussicht auf Verkauf hatten. Es war eine grundsaeztlich Ablehnung der Kaeufer vorhanden, die im wesentlichen natuerlich darauf zurueckzufuehren war, dass Rhone-Poulenc selbst eine hohe wissenschaftliche Leistung aufwies und auch organisatorisch im Verkauf sehr tuechtig war. Ich habe nie das franzoesische Geschaef als interessant betrachtet, sondern war mir klar, dass, wenn wir ueberhaupt unsere Produkte in Frankreich in groesserem Umfange verkaufen wollten, dass das nur durch ein Zusammengehen mit einer franzoesischen Firma moeglich war." ( PE 2069, S. 9; ferner Manns direktes Verhoer, Tr. Engl.S. 10391 und Mann Exh. 219 ).



In diesem Zusammenhang moechten wir darauf aufmerksam machen, dass die Versuche, die Bayer vor dem Kriege gemacht hat, mit einer anderen franzoesischen Firma ( Roussel ) ueber die Lizenzfrage und ueber die Erzeugung von Bayer Produkten ein Abkommen zu treffen, gescheitert waren. ( Mann Exh. 178 )

( 31 ) Bemerkung zu B: Das zweite Abkommen als der "Kern" des gesamten Vertragskomplexes.

Das zweite Abkommen vom 28. Maerz 1941 ( PE 1275 ) beeintraehtigt den Fluenderungstatbestand des Lizenzabkommens ( PE 1271 ), welches ihm vorausging, oder der Theraplix-Konvention ( PE 1283 ), welche ihm folgte, keineswegs. Das zweite Abkommen vom 28. Maerz 1941 ist seinem Umfang und seinen Auswirkungen nach unerheblich. Der Angeklagte Mann gab im Kreuzverhoer zu, ( Transkr. Engl. S. 10602 ), dass Bayer durch dieses Abkommen von Rhone-Poulenc kein einziges Erzeugnis erhielt, das es zu fuehren bereit war, und dass daher keine Lizenzgebuehren irgendwelcher Art von Bayer an Rhone-Poulenc bezahlt wurden. Er gab weiter zu, dass Rhone-Poulenc andererseits waehrend der 3 Jahre von 1941-1944 nicht mehr als drei Bayer Produkte fuehrte. ( Vergl. auch Mann Exh. 234, 251; Transkr. Engl. S. 10603 ). Als das zweite Abkommen abgeschlossen wurde, hatte Mann selbst nicht das Gefuehl, noch hat er es in Worten ausgedrueckt, dass er dadurch der Rhone-Poulenc fuer das Lizenzabkommen, das ihr kurz vorher aufgezwungen worden war, Entschaedigung geleistet hatte. Am 18. Maerz 1941 berichtete er dem kaufmaennischen Ausschuss, dass dieses zweite Abkommen

" sich mit Ruecksicht auf die internationalen Verflechtungen von Rhone-Poulenc voraussichtlich sehr guenstig auswirken wuerde ". ( PE 1622, S. 7 ).

( 32 ) Bemerkung zu C: Theraplix-Abkommen.

( a ) Damit, dass die I.G. wiederholt feststellt, die Theraplix sei auf den Vorschlag von Rhone-Poulenc hin gewaehlt worden ( PE 2093, S. 6; 1283 S. 4; Mann Exh. 3-3 ), vertuscht sie nur den wahren Zusammenhang. Die Beweisaufnahme hat erwiesen, dass die I.G. selbst der Rhone-Poulenc eine Verkaufsgemeinschaft aufgezwungen hat, und dass sich Rhone-Poulenc schliesslich fuegte, weil es ihr als das " kleinere Uebel " erschien. ( PE 1276 ). Als sich Rhone-Poulenc erst einmal der dringenden Forderung der I.G.

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(I.G. Protokoll, PE 1269, erwähnt "die unabwendbare Forderung" der I.G.) nach einer Verkaufsgemeinschaft gefügt hatte, ist es ganz gut möglich, dass die Rhone-Poulenc ihrerseits dann gerade die Theraplix wählte. Das hat mit der vorliegenden Angelegenheit nichts zu tun.

(b) Die Beweisführung hat eindeutig ergeben, dass die I.G. ohne Mitwissen der Rhone-Poulenc die entscheidende 2%ige Beteiligung an Theraplix erwarb, durch welche ihre offizielle 49%ige Beteiligung zu einer Mehrheit wurde. In unserem vorläufigen Memorandum-Brief haben wir dies "das Betrugsoliment" genannt, welches die Rhone-Poulenc-Angelegenheit zusätzlich charakterisiert. Da die einander widersprechenden Behauptungen, die der Angeklagte Mann in diesem Zusammenhange aufgestellt hat, seine Glaubwürdigkeit stark bezweifeln lassen, werden wir uns mit dieser Frage in dem Brief über den Angeklagten Mann befassen (Abschnitt VI R, unten).

(c) Ob das Theraplix-Geschäft später Gewinn brachte oder nicht, ist nicht relevant, da die I.G. Druck anwandte, um ihre Beteiligung zu erwerben. Wenn die I.G., nachdem sie einmal diesen Druck angewandt hatte, die Interessen dieses Unternehmens, das nun teilweise ihr selbst gehörte, förderte, so hat das mit dem Fluendungsdelikt, welches z.Zt. des Erwerbs begangen wurde, nichts zu tun. In Wirklichkeit sind jedoch die von I.G. unterbreiteten Zahlen in diesem Zusammenhang wieder einmal vollständig irreführend. Ihr ein Beispiel: Wahrscheinlich auf Grund der oidesstattlichen Erklärung des Herrn Josef Schmitz (Mann Exhibit 255) hat der Angeklagte Mann ausgesagt (Transcript, Englische Seite 10437; deutsches Protokoll Seite 571):

"Entsprechend war natürlich auch der Gewinn (der Theraplix), der von 5 Millionen vor der Übernahme (d.h. ohne I.G. ihren Antrag erwarb) auf 20 Millionen im Geschäftsjahr 1943/44 stieg."

Mann sowohl wie Josef Schmitz lassen die Tatsache, die in diesem Zusammenhang entscheidend ist, einfach aus, nämlich dass die Theraplix im Jahre 1941 ein Betriebskapital von 5 Millionen französischen Franken besass (so dass ihre Gesamteinnahmen in jenem Jahre 100 % des Kapitals betragen), während vor 1943 das Kapital von 5 Millionen Franken auf 50 Millionen Franken erhöht worden war. Der gesamte Betrag dieser Kapitalerhöhung war 1942 bar bezahlt worden (Mann Exhibit 256, 261). Wenn der Rohgewinn im Jahre 1943 auf Grund dieses Kapitals von 50 Millionen

20 Millionen Franken betrug, so war das nur 40% des neuen Kapitals und nicht, wie im Jahre 1941, 100% des damaligen Kapitals (Hann Exhibit 258). Wenn man aus diesen Zahlen überhaupt eine Folgerung ziehen kann, dann höchstens die, dass das Resultat schlechter war.

(33) Bemerkung zu D: Die enthusiastische Mitarbeit der Rhone-Poulenc.

(a) Was den "freundlichen Ton" des Briefes der Rhone-Poulenc an Bayer anbelangt, dürfen wir die sprichwörtliche Höflichkeit der Franzosen nicht vergessen, welche die unglückliche Königin Marie Antoinette veranlasste, zu ihrem Scharfrichter "Danke sehr, mein Herr" zu sagen. Im vorliegenden Fall besagt er jedenfalls gar nichts. Wir haben bewiesen, dass es einfach ein kluger Trick der leitenden Herren der I.G. war, die sich auf diese Weise als die Befreier ihrer französischen Freunde von den angeblich von der Nazi-Regierung gegen Rhone-Poulenc geplanten (fiktiven) Übergriffen aufspielen zu können glaubten.

(b) Die Zeugen der Verteidigung, darunter Werner Schmitz und Krantz aus Leverkusen, lassen sich jetzt uober den "freundlichen Ton" der Verhandlungen und uober die Vorteile, die Rhone-Poulenc von dem Abkommen hatte, aus (Hann Exhibit 236, 237, 201). Sie haben es jedoch nicht fertiggebracht, ihre eidesstattlichen Erklärungen mit ihren damaligen Feststellungen in Einklang zu bringen, wonach sich Rhone-Poulenc sowohl dem Lizenzabkommen wie dem Theraplix-Vertrag nur deswegen gefügt hatte, weil es ihr als "das kleinere Übel" erschien (PE 1272, bezüglich des Lizenzabkommens; PE 1276 bezüglich des Theraplix-Vertrages). Die Zeugen Werner Schmitz und Krantz haben die Worte "kleineres Übel" damals tatsächlich gebraucht. Interessanterweise ist es jetzt Hr. Br ck und nicht Werner Schmitz oder Krantz, der heute auf den Satz vom "kleineren Übel" eingeht, indem er vergeblich versucht, ihn durch Erklärungen einfach beiseite zu schieben (Hann Exhibit 303).

(c) Diese Bemerkungen uober den Gesichtspunkt des "kleineren Übels", unter dem die Rhone-Poulenc die Verträge abschloss, zeigen, wie die Stimmung der Rhone-Poulenc damals wirklich war.



Bayer selbst wusste ganz genau, dass sie Rhone-Poulenc nur dadurch zum Nachgeben zwang, dass sie die deutsche Regierung als ein Schwert gebrauchte und die Forderung, entweder auf eine Beteiligung an Rhone-Poulenc selbst oder eine Kontrolle des Verkaufs der Rhone-Poulenc aufstellte. In ihrem Brief vom 18. Januar 1941 (PE 1274) hat die Rhone-Poulenc kein Hehl aus dieser Lage gemacht. Wie Faure-Beaulieu Mann mitteilte, trat dieser Brief an die Stelle des Entwurfes, den die Rhone-Poulenc vorher gemacht hatte und dessen Wortlaut sogar "noch schärfer" (PE 2166) gewesen war. Diese zeitgenössischen Dokumente beseitigen allen Zweifel ueber die wirklichen Bedingungen, unter denen diese "Abkommen" heranreiften.

Final Brief of the  
Prosecution Part III

BESTÄTIGUNG DER ÜBERSETZUNG

14 July 1948

Wir,

M.E.MASON, ETO No. 6176,  
Leonard LAWRENCE, ETO No. 20138,  
Alfred RAHL, ETO No. B 398081,

bestätigen hiermit, dass wir offizielle Übersetzer fuer  
die Deutsche und englische Sprache sind und dass obiges Schrift-  
stueck eine wahrheitsgetreue und genaue Übersetzung des  
Anschliessenden Schriftsatzes der Anklagebehörde Teil III ist.

M.E.MASON,  
ETO No. 6176,  
Seite 1 - 20,

Leonard LAWRENCE,  
ETO No. 20138,  
Seite 21 - 29 und  
Seite 39 - 44,

Alfred RAHL,  
ETO No. B 398081,  
Seite 30 - 38.

Final Brief, Prosecution (German)  
PARTS I + II



Militärgerichte

VEREINIGTE STAATEN VON AMERIKA

gegen

KRAUCH und Genossen (Prozess No. VI)

Schluss Brief der Anklagebehörde.

Teil IV

Gewisse Taten auf dem Gebiet der Sklavenarbeit  
und des Massenmordes.

Nürnberg, Deutschland

1. Juni 1948.



## INHALTSANGABE.

### Teil IV

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TEIL IV. GEWISSE TATEN AUF DEM GEBIET DER SKLAVEREI UND DES MASSES-  
MORDES.

A - Einleitung.

(1) In Teil III des Preliminary Memorandum Brief wurde die Rolle der Angeklagten im Versklavungsprogramm im allgemeinen erörtert; so ihre Beteiligung bei den Lieferungen von Giftgas fuer Massenvernichtungen, ihre Beteiligung bei verbrecherischen aerztlichen Versuchen, und ihre Beteiligung bei der unmenschlichen Verwendung und bei der Misshandlung von Insassen der Konzentrationslager in den IG Werken Auschwitz und Ploestengrube. Da der Preliminary Memorandum Brief ein Teil dieses Final Briefs ist, ist es nicht beabsichtigt, alles im Preliminary Brief Gesagte nochmals zu wiederholen, <sup>das</sup> was allgemein ueber die Rolle der IG im Versklavungsprogramm gesagt wurde, bedarf keiner Ergaenzung, es sei denn in so weit, als es die Rolle jedes einzelnen der Angeklagten in Teil VI dieses Briefs noetig machen wird, und in so weit als gewisse Verteidigungsgruende eines Kommentars beduerfen. Im allgemeinen werden die Verteidigungsgruende der einzelnen Angeklagten in Teil VI behandelt werden. Mit der von vielen Angeklagten im allgemeinen angewandten Verteidigungstaktik nicht nur gegenueber den Beschuldigungen des Anklagepunktes III sondern auch der Punkte I und II, naemlich der sogenannten Zwangslage und dem Druck von oben, setzt sich Teil V dieses Briefs auseinander. Nach einigen einleitenden Bemerkungen soll Teil IV der weiteren Beleuchtung der Taetigkeit der IG im Auschwitzwerk dienen; das Beweismaterial ueber die Lieferungen von Giftgas zu Massenvernichtungen wird weiter untersucht und die Beschuldigung der Teilnahme an verbrecherischen aerztlichen Versuchen wird weiter entwickelt werden.



(2) Das von der Verteidigung in ihrem Vortrag vorgebrachte Beweismaterial, sowohl als auch die waehrend desselben Vortrages vorgebrachten Beweise der Anklage, haben lediglich dazu beigetragen, die Annahme zu verstaerken, dass der IG Vorstand fuer die Allgemeine Arbeitspolitik und fuer die Fuersorge fuer die von der IG beschaeftigten Arbeitskraefte verantwortlich war. Nicht nur nach dem Gesetz trug der Vorstand die Verantwortung fuer die Fuersorge fuer die IG Arbeitskraefte. Die Beweismittel haben ergeben, dass diese Verantwortlichkeit des Vorstandes auch tatsaechlich von dem Vorstand anerkannt und angenommen worden war.

Als die Verteidigung ihr Beweismaterial vorlegte, hat der Angeklagte BUEGIN bei der Befragung folgendes ausgesagt:

"Das von Ihnen erwachte Gesetz (Arbeitsordnungsgesetz) machte den Vorstand zum Betriebsleiter des Unternehmens im Sinne dieses Gesetzes." (Prot.S.8414).

Und der Angeklagte SCHNEIDER sagte bei seiner Vernehmung aus:

"Nach dem Arbeitsregelungsgesetz stellt der Vorstand einer Aktiengesellschaft den Eigentuerer und den Betriebsleiter vor. Solange er nicht selbst in dem betreffenden Werk arbeitet, z.B. in einem anderen Ort wohnt, hat der Vorstand eine Person zum Betriebsleiter zu bestellen. Wenn der Vorstand aus mehreren Personen besteht, ist eines der Mitglieder zu bestimmen, welches die Funktionen des Betriebsleiters auszuueben hat. Wenn die Gesellschaft aus mehreren Werken an verschiedenen Orten besteht, hat der Vorstand ebenfalls aus seinen Reihen ein Mitglied als Betriebsleiter der Gesamtunternehmung zu bestellen. Bei der IG war dies der Hauptbetriebsleiter.  
(Transcr.(Seite 7393; vergl. auch Pros.Exh.1329)).

Der Angeklagte SCHNEIDER war der sogenannte Erste oder Hauptbetriebsfuhrer der IG. Dazu wurde er durch den Vorstand ernannt, und als der Vertreter des Vorstandes trug er ihm vor und berichtete ihm

ueber alle Wohlfahrtsfragen (Ankl.Exh.1329). Im Kreuzverhoer hat der Angeklagte SCHNEIDER ausgesagt, dass es seine Pflicht war, dem Vorstand ueber "wichtige grundsatzliche Fragen der Fuersorge" Vortrag zu halten. Und er konnte sich keines einzigen Falles entsinnen, dass der Vorstand sich mit den von ihm gemachten Vorschlaegen nicht einverstanden erklart hatte (Protokoll S.7467 und 68).

(3) Der IG Vorstand setzte die Richtlinien fuer die bei der Beschaeftigung von Fremdarbeitern und Kriegsgefangenen in den IG Werken zu verfolgenden Politik fest. Die Aufzeichnungen vom 11 Juli, Punkt drei der Tagesordnung der Aufsichtsratssitzung mit der Ueberschrift "Bericht des Vorstands zum vergangenen Finanzjahr" zeigen, dass der Angeklagte SCHMITZ folgende Aeussderung gemacht hat:

"Die Werke muessen ihre Anstrengung darauf richten, die erforderlichen Arbeitskraefte zu erhalten; durch auslaendische Arbeiter und Kriegsgefangene konnte der Bedarf im allgemeinen gedeckt werden." (Ankl.Exh.1312).

Zur Zeit dieser Sitzung waren die deutschen Truppen unter anderem in Polen, der Tschechoslowakei, Belgien und den Niederlanden eingedrungen und hatten diese Laender besetzt. Ungefuehr drei Wochen vor dieser Sitzung waren deutsche Truppen im Sowjet-Gebiet eingedrungen. Die Sitzung fand 21 Monate nach dem bekannten Deutschen Erlass vom 26. Oktober 1939 statt, durch den die Zwangsarbeit in Polen eingefuehrt wurde. Hinsichtlich der Beschaeftigung von Polen hat der Angeklagte SCHNEIDER ausgesagt:

"Nach der Besetzung Polens wurden dort Arbeitskraefte frei und nach Deutschland geschickt." (Prot.S.7469).

Das Beweismaterial zeigt, dass die IG bereits vor dem 14. Mai 1940 maennliche und weibliche polnische Arbeiter angefordert hatte (Ankl. Exh.1899, Prot.S.7469). Das Beweismaterial zeigt gleichfalls, dass der zweite Transport polnischer Arbeiterinnen vor dem 18. Juni 1940 an das

Filmwerk der IG in Wolfen ging, das unter Leitung des Angeklagten GÄ-JEWSKI stand (Ankl.Exh.1900, Prot.S.7469).

(4) Die Protokolle einer anderen Sitzung des IG Aufsichtsrats, die am 30. Mai 1942 stattfand, beweist, dass der Angeklagte SCHMITZ in seinem an den Aufsichtsrat gerichteten Vorstandbericht wiederum die Beschäftigung von ausländischen Arbeitern und Kriegsgefangenen erwähnte. Damals sagte er:

"Der Mangel an Arbeitskräften, insbesondere an Facharbeitern, musste durch verlängerte Arbeitszeit, den Einsatz von Frauen, Ausländern und Kriegsgefangenen ausgeglichen werden." (Ankl.Exh.1313).

Diese Sitzung fand wenig später als zwei Monate nach SAUCKEL's Ernennung zum Generalbevollmächtigten für den Arbeitseinsatz statt (Ankl.Exh.1290). Die Sitzung fand ungefähr drei Wochen nach SAUCKEL's beauftragter Verordnung No. 4 über die Rekrutierung ausländischer Arbeiter statt, in der er offen erklärt hat, dass man zu Zwangsarbeit und Zwangsrekrutierung greifen müsse. (Ankl.Exh.1301). Nach Aussage des Angeklagten SCHNEIDER im Kreuzverhör begann die IG mit der Beschäftigung russischer Arbeiter im Jahre 1941 oder 1942 (Prot.S.7471, 7472). Der Zeuge STRUSS hat bezeugt, dass praktisch jedermann in Deutschland darüber unterrichtet war, dass russische Arbeiter nach der Schlacht von Kiew im November 1941 gezwungen wurden, nach Deutschland zu kommen (Ankl.Exh.1318). In einem zeitgenössischen Dokument, das von der Anklagebehörde vorgelegt wurde, heisst es, dass der erste Transport russischer Zivilisten vor dem 27. März 1942 in Ludwigshafen eintraf, wo der Angeklagte WURSTER Betriebsleiter war (Ankl.Exh.1338). Dies war nur wenig früher als zwei Monate vor der oben erwähnten Aufsichtsratsitzung vom 30. Mai 1942.

(5) Das Beweismaterial, einschliesslich der Zeugenaussagen einiger der Angeklagten enthüllt, dass die Aufzeichnungen über die Sitzungen des TEA und des Vorstandes nicht immer eine ins einzelne gehende Erörterung



der Arbeiterfrage enthalten. Tatsächlich bestand wenig Anlass fuer eine derartige eingehende Erörterung vor diesem Forum, weil die meisten Vorstandsmitglieder bereits mit den Einzelheiten eines Projektes oder von Ausgaben von Unterkomitees her vertraut waren. Der Angeklagte KRAUCH, z.B., hat bezueglich der Kredite oder Ausgaben fuer die Unterbringung von Arbeitskraefte ausagesagt:

"Da das Resultat der Pruefung dieses Antrages durch die Fachleute bereits vorlag, wurde im allgemeinen wenig diskutiert, der Antrag genehmigt und an den Vorstand weitergegeben. Da praktisch alle Vorstandsmitglieder bereits von der Angelegenheit unterrichtet waren, war die Genehmigung dieses Kredits durch den Vorstand eine formelle Angelegenheit." (Ankl.Exh.1330).

Diesbezuglich hat der Angeklagte GAJEWSKI bei seiner Befragung ausgesagt, dass derartige Kredite in dem TEA nur ganz summarisch behandelt wurden, weil sie schon in den betreffenden Sparten durchgesprochen worden waren. (Prot.S.8189). Ein Beispiel dafuer, wie sich dies in Wirklichkeit abspielte, ist in dem Kreditgesuch gegeben, das zur Errichtung eines neuen Lagers fuer 500 russische Arbeiter der Buna-Anlage in Schkopau unterbreitet wurde. Die Uberschrift dieses Schriftstuecks lautet: "XVI.Fuersorge". Es wurde dem Angeklagten SCHNEIDER am 12. Oktober 1942 vorgelegt. Der TEK, deren Leiter der Angeklagte JAEHNE war, ging es am 20./22.Oktober zu (die Mitglieder des TEA erhielten Abschriften der TEK Protokolle), und am 26. Oktober genehmigte der TEA den Antrag. (Ankl. Exh.1320). Jedes Vorstandsmitglied, das mit den Einzelheiten dieser Angelegenheit nicht vertraut war, brauchte sich nur an seinen Nachbarn im Vorstand zu wenden, um sich die Einzelheiten aus erster Hand zu verschaffen.

(6) Was nun die sogenannte SAUCKEL-Aktion angeht, erhellt aus den Vorstandsprotokollen, dass der Angeklagte SCHMITZ den Angeklagten MANN ersuchte, den Vorstand einen Vortrag ueber eine Vollsitzung des Erweiterten Beratenden Ausschusses der Reichsgruppe Industrie zu halten, vor dem

Gauleiter SAUCKEL einen Bericht ueber die Lage auf dem Arbeitsmarkt, ueber die Behandlung auslaendischer Arbeiter usw. gegeben hatte. (Ankl.Exh.1322). Ein Schreiben des Angeklagten SCHNEIDER vom 6. November 1942 an die Angeklagten von SCHNITZER und MANN enthielt einen Vorschlag, der in der letzten Vorstandssitzung gemacht worden war, dem zufolge die IG im Rahmen dieser verstaerkten SAUCKEL-Aktion von solchen franzoesischen Firmen, von denen die IG Anteile besass und an denen sie sonst irgendwie interessiert war, Arbeiter beziehen sollte. (Ankl.Exh.1327).

#### B. DIE IG UND AUSCHWITZ

- (7) Die Beweisaufnahme hat unzweifelhaft ergeben, dass:
- a) die Angeklagten die Initiative bei der Auswahl des Auschwitz-gelandes fuer die Errichtung des vierten Bannwerkes der IG ergriffen haben, in voller Kenntnis vom Bestehen des Konzentrationslagers von Auschwitz und im Hinblick auf die Verwendung seiner Insassen fuer den Bau und den Betrieb des Bannwerkes;
  - b) die Angeklagten die Initiative hinsichtlich der Beschaffung von Konzentrationslagerinsassen fuer den Bau und Betrieb des Werkes ergriffen haben, und dass sie auf die Erhoehung der Zahlen gesunder Insassen waehrend des Baues drangen;
  - c) die Bedingungen, unter denen die Sklavenarbeiter und besonders die Lagerinsassen auf dem IG Baugelaende und im IG Werk leben und schaffen mussten, unmenschlich waren und den Tod Tausender von Menschen verursachten;
  - d) solche Insassen, die nicht mehr imstande waren, bei dem Bauprojekt oder in dem Werk der IG zu arbeiten, in die Gaskammern geschickt wurden, und dass durch das unmenschliche Antreiben der Angeklagten zur Schnelligkeit und Erhoechten

und erhöhten Produktion um jeden Preis Zehntausende von Insassen  
vernichtet wurden, weil sie als arbeitsunfähig angesehen wurden;



e) die Angeklagten strafrechtlich die Verantwortung fuer diese Taten tragen, die unter die Bestimmungen des Artikels II des Kontrollratsgesetzes Nr.10 fallen.

a) Die Angeklagten ergriffen die Initiative bei der Auswahl des Auschwitzgelandes fuer die Errichtung des vierten Bunaerwerkes der IG in voller Kenntnis von dem Bestehen des Konzentrationslagers Auschwitz und im Hinblick auf die Verwendung der Insassen beim Bau und Betrieb des Bunaerwerkes;

8) Infolge des in Deutschland bestehenden Mangels an natuerlichem Gummi war die Bunaerzeugung fuer die deutsche Kriegsmaschine lebenswichtig. Die IG war der alleinige Bunaerzeuger in Deutschland, und die Hauptverantwortung fuer die Aufrechterhaltung der notwendigen Bunaerzeugung ruhte besonders auf den Angeklagten KRAUCH, TER MER, und AMEROS (Ankl.Exh. 1408; Ankl.Exh. 1420; Ankl.Exh. 1414).

(9) Die sogenannte Anweisung an die IG, auf die sich die Verteidigung stuetzt, (Ankl.Exh.1408 oben) beweist, dass, gleichgueltig wer auch den "Befehl" zum Bau eines vierten Bunaerwerkes in Schlesien gegeben haben mag, die tatsaechliche Verantwortung fuer die Auswahl der Lage des vierten Bunaerwerkes bei der IG liegt. Ferner ging die Initiative fuer den Beschluss, eine vierte Buna-Anlage so schnell wie moeglich in Auschwitz zu bauen, von dem Angeklagten KRAUCH aus und nicht von einer anderen Regierungsbehoerde. Im HANNEKERbrief heisst es:

"Bezuglich der Anlage in Schlesien bitte ich Sie, umgehend die grundsatzlichen Verhandlungen ueber die Finanzierung sowie die Klaerung der Standortfrage vorzunehmen, damit entsprechend dem Vorschlag des Generalbevollmaechtigten fuer Sonderfragen der chemischen Erzeugung spaetestens im Januar der endgueltige Start fuer diese Anlage gegeben werden kann." (Ankl.Exh.1408).

(10) Nachdem der Beschluss zum Bau eines vierten Dunawerkes gefasst war, wurde AMEROS der Auftrag erteilt, die verschiedenen Möglichkeiten, ein geeignetes Gelände zu finden, zu überprüfen. (Ankl.Exh.1419)

(11) Unter den von dem Angeklagten in Betracht gezogenen Plätzen war auch Rattwitz, südöstlich von Breslau. Dieser Platz war ursprünglich von der IG fuer eine geplante dritte Duna-Anlage in Aussicht genommen und schliesslich auch genehmigt worden. Tatsächlich wurde der Bau in Rattwitz im April 1940 begonnen, wurde aber im Juli nach Beendigung des Feldzuges in Frankreich abgestoppt, nachdem die IG ueber vier Millionen RM dort investiert hatte. (Prot.7823/4)

(12) Bei der Auswahl des Platzes in Rattwitz war es offenbar noetig gewesen, das Vorkommen des Rohmaterials, die verfügbaren Transportmittel und die Arbeiterfrage in Betracht zu ziehen. Die ausschlaggebende Wichtigkeit der Arbeiterfrage bei der Auswahl des Rattwitz-Geländes wurde unmissverständlich von dem Angeklagten AMEROS in seinem direkten Verhoer erwiesen, als er darauf hinwies, er habe die Nachteile der erheblichen Entfernung von den Vorkommen der lebensnotwendigen Rohstoffe Kohle, Kalk und Salz, — 100, 80, und 300 Kilometer — nicht berücksichtigt und trotzdem Rattwitz vorgeschlagen, weil es einen Vorteil hatte: — es lag nahe bei Breslau, und Breslau schien noch Menschen zu haben. (Prot.S.7820/1).

Die Wahl von Rattwitz durch AMEROS war von den IG Vorstandskoll egen, besonders von SCHMITZ und KRAUCH (Prot.S.7830) gebilligt worden, und, wie schon oben angedeutet, vier Millionen RM waren ausgegeben worden, bevor das Projekt fallen gelassen wurde, weil der Frankreich-Feldzug vorbei war. (Prot.7823/4).

(13) Einige Monate spaeter, als man sich fuer die Erweiterung der Buna Produktion entschlossen hatte, erhielt AMEROS wiederum den Auftrag, einen passenden Platz fuer die Errichtung einer Buna Fabrik auszusuchen. Im direkten Verhoer wurde AMEROS die Frage gestellt:

"Warum sind Sie nicht nach Rattwitz zurueckgegangen, wo Sie bereits angefangen und so viele Millionen hineingesteckt hatten?"

AMEROS gab dafuer in seiner Antwort zweierlei Erklaerungen:

- 1.) "Vom technischen und wirtschaftlichen Standpunkt aus war Rattwitz nicht wuensenswert."
- 2.) "... in der Zwischenzeit waren in Breslau und Umgebung vier grosse Unternehmungen errichtet worden."

(Prot. 7830)

(14) Mit anderen Worten, als AMEROS zunaechst Rattwitz als den geeigneten Platz fuer die Errichtung eines dritten Buna-Werkes wahlte, war er bereit, die Tatsache zu uebersehen, dass Kohle ueber 100 km, Kalzium 80 km und Salz 300 km weit weg lag, und dies aus dem Grunde, weil Arbeitskraefte aus der grossen benachbarten Stadt gezogen werden konnten, und AMEROS lohnt Rattwitz in Oberschlesien erst dann ab und ging daran eine neue Baustelle fuer die vierte Buna-Fabrik auszusuchen, als andere Firmen die vorhandenen Moeglichkeiten der Arbeiterbeschaffung erschoept hatten. 1) (Prot. 7821)

(15) Dass die Arbeiterfrage tatsaechlich der entscheidende Punkt war, hat der Angeklagte AMEROS in seiner Aussage vom Vortage selbst zugegeben, als er sagte: "Breslau schien noch ueber Arbeitskraefte zu verfuegen; leider aber, als wir dorthin gingen, hatten vier andere grosse Firmen diese Vorteile auch wahrgenommen und das hat den Arbeitsmarkt erschoept."

(Prot. 7821-2)



- 
- 1) AMEROS' Aussage, dass in Rattwitz nicht genügend Platz fuer den Ausbau war, wird vollkommen durch Ankl.Exh.1409 widerlegt:  
"fast unbegrenzte Moeglichkeiten des Ausbaus."

(16) Wenn wir uns nun der Auswahl des Auschwitz Bauplatzes zuwenden, ist es interessant festzustellen, wie man ueber die Loesung der Frage des notwendigen Arbeitereinsatzes in Verbindung mit dem geplanten gigantischen Projekt in Auschwitz dachte, insbesondere da Auschwitz kein Breslau fuer die Lieferung seines Arbeiterbedarfs hinter sich hatte. Nach einer Besprechung am 10. Januar 1941 erhielt der Angeklagte AMEROS am 11. Januar 1941 einen Bericht ueber den Auschwitz Bauplatz, der besonders darauf hinwies, dass "Auschwitz noch als Juden-Reservoir benutzt wurde" und dass nach der Evakuierung der Juden passende Unterkünfte fuer die Bauarbeiter und spaeter fuer die Belegschaft des Werkes vorhanden sein wuerden. (Ankl.Exh.1410).

(17) Am 16. Januar 1941 hatte AMEROS in Ludwigshafen eine Besprechung mit anderen Vertretern der I.G.Farben und auch der Firma Schlesien-Benzin, bei welcher Gelegenheit die technischen Moeglichkeiten und die des Arbeitseinsatzes in Auschwitz geschildert wurden. Waehrend dieser Konferenz wurde dem Angeklagten AMEROS folgende Beschreibung der Baustelle Auschwitz gegeben (Ankl.Exh.1411):

"Die Einwohner von Auschwitz setzen sich zusammen aus 2 000 Deutschen, 4 000 Juden und 7 000 Polen. Die Deutschen sind Bauern. Die Juden und Polen wuerden, wenn dort Industrie gebaut wird, ausgewiesen werden, so dass dann die Stadt fuer die Belegschaft der Fabrik zur Verfuegung stuende. Aus diesem Grunde wird es zumindest fuer den Anfang nicht notwendig sein, viel Wohnungen zu bauen, da ein Umbauen der bestehenden Wohnungen wenigstens im gewissen Rahmen moeglich sein duerfte. In unmittelbarer Naehة von Auschwitz wird fuer die Juden und Polen ein Konzentrationslager gebaut." (Ankl.Exh.1411)

(18) Es sollte vermerkt werden, dass JOSEPHANS, als er dem Angeklagten AMEROS obige Mitteilung ueber Auschwitz machte, gleichzeitig berichtete, dass er vorher mit dem Angeklagten HUETEFISCH ueber den Auschwitz Bauplatz gesprochen habe hinsichtlich einer moeglichen Zusammenarbeit zwischen Buna und Schlesien-Benzin

und dass HUETEFISCH "sehr fuer eine Zusammenarbeit in der Buna Hydro-  
nung in Auschwitz war." (Ankl.Exh.1411, oben)

(19) Am 25. Januar 1941 berichtet AMEROS' leitender Ingenieur FAUST,  
nach einer speziellen Fahrt nach Auschwitz, um den in Aussicht genomme-  
nen Bauplatz zu inspizieren, ueber die folgenden Feststellungen an  
SANTO, AMEROS' leitenden Ingenieur in Ludwigshafen (Ankl.Exh.2261):

"... dass in Auschwitz von etwa 18 000 Einwohnern 70% Juden  
seien, dass suedlich von Auschwitz sich ein Konzentrationslager  
mit 20 000 Juden befindet, usw."

Bezuglich Arbeitskraefte fuegt er hinzu:

"Als Arbeitskraefte kommen... trotz der bevorstehenden Aussied-  
lung, Polen und Juden in Frage."

(20) Am 30. Januar 1941 wurde waehrend der K Konferenz, an der ter MEER  
und AMEROS teilnahmen, festgestellt, dass die "Arbeiterfrage" eines der  
schwieriger zu loesenden Probleme darstelle. (AMEROS Exh.79)

(21) In der Zwischenzeit waren FAUST und SANTO, die den grundlegenden  
Bericht geliefert hatten, nach dem der K Ausschuss dann die Auschwitz-  
Baustelle in Betracht gezogen hatte, gemeinsam nach Auschwitz gefahren,  
um weitere Untersuchungen anzustellen. Am 31. Januar berichteten sie  
(Ankl.Exh.1412):

"Das bereits vorhandene Konzentrationslager fuer etwa 7 000  
Haftlinge soll vergroessert werden. Moeglichkeiten fuer Be-  
schaeftigung von Haftlingen bei dem Bauvorhaben nach Verhand-  
lungen mit dem Reichsfuehrer-SS moeglich."

(22) Schliesslich wurde in einem Bericht ueber eine Inspektionsfahrt  
vom 1. bis 4. Februar, an der der Angeklagte AMEROS selbst teilnahm,  
folgendes bezueglich Auschwitz und dem Auschwitzer Bezirk festge-  
stellt (Ankl.Exh.1415):



"Die volkswirtschaftliche Zusammensetzung ist sehr schlecht. Insgesamt sollen dort nur 2 000 Volksdeutsche, von denen aber die wenigsten deutsch sprechen, wohnhaft sein. In Auschwitz sind 7 000 Juden zusammengeschlossen, während die übrige Bevölkerung polnisch ist. . . ."

"Durch die Aussiedlung der Polen und Juden wird ab Frühjahr 1942 ein grosses Vakuum an Arbeitskräften entstehen."

"Es ist deshalb notwendig, sobald als möglich mit dem Reichsführer-SS in Verbindung zu treten, um mit ihm die notwendigen Massnahmen zu besprechen. Der Regierungspräsident in Kattowitz machte z.B. den Vorschlag, bei einer Aussiedlung der Polen vorerst die besten Kräfte noch zurückzuhalten, um sie für die Bauarbeiten einspannen zu können."

(23) Zwei Tage nach AMEROS' Rückkehr von einer Inspektionsreise nach Auschwitz berichtete er den Angeklagten ter MEER und KRAUCH und erwachte bei dieser Gelegenheit im Besonderen, dass sich in Auschwitz ein Konzentrationslager befinde, worauf laut AMEROS "die Entscheidung über die Wahl Auschwitz's für das Bauvorhaben getroffen wurde." (Ankl.Exh.1419).

(24) Auf Grund des von AMEROS den Angeklagten KRAUCH und ter MEER unterbreiteten ausführlichen Berichts über seine Feststellungen erklärte sodann der Angeklagte KRAUCH (Ankl.Exh.1414)

"... dass das Reichsamt für Wirtschaftsausbau auf Grund dieser Untersuchungen nunmehr das Norwegen-Projekt fallen lässt und den Standort Auschwitz für die Errichtung der vierten Buna-Fabrik bestimmt."

(25) Auf Grund der eidestattlichen Erklärungen von SANTO, EISFELD und insbesondere des Dr. ALT, Hilfsverteidiger des Angeklagten AMEROS, behauptet die Verteidigung, dass der Standort Auschwitz nicht, wie oben angegeben, am 6. Februar 1941, sondern vielmehr am 30. Januar 1941 gelegentlich einer Konferenz des K Ausschusses gewählt worden war. Wenn dem Zeugnis des Dr. ALT Glauben zu schenken ist, dann hat die K Ausschuss-Konferenz die Inangriffnahme eines RM 600 000 000 Projektes auf der Grundlage

einer angeblichen Aktennotiz vorgeschlagen, die von SANTO ueber ein angeblich mit Ingenieur FAUST gefuehrtes Ferngesprach angefertigt wurde, welches FAUST's Untersuchungen ueber die Eignung von Auschwitz als Bauplatz fuer die Errichtung der Buna-Fabrik zum Gegenstande hatte. Weder FAUST noch SANTO nahmen an dieser Konferenz teil.

(26) Es ist einigermaßen schwer verstaendlich, warum fuer diesen bedeutenden technischen Ausschuss, den K Ausschuss, die Notwendigkeit bestanden haben soll, sich auf eine angebliche Aktennotiz ueber ein angebliches Telefongesprach verlassen zu messen, angesichts der Tatsache, dass FAUST ueber seine Feststellungen in einem internen nach Ludwigshafen gerichteten Memorandum am 25. Januar 1941 schriftlich an SANTO berichtete - am gleichen Tage, da das angebliche Telefongesprach stattgefunden haben soll.

(27) Der Hauptunterschied zwischen der Aktennotiz ueber das Telefongesprach (AMEROS Exh.77) und dem schriftlichen Bericht vom gleichen Tage (Ankl.Exh.2261) ist der, dass die Aktennotiz in der Hauptsache von den Wasserverhaeltnissen handelt, waehrend der schriftliche Bericht neben der Schilderung der Wasserverhaeltnisse, Kohlenfrage, usw. ausdrucklich erwachnt, dass von den 18 000 Einwohnern von Auschwitz 70% Juden waeren und dass sich "guedlich von Auschwitz ein Konzentrationslager mit 20 000 Juden befaende" und dass

"als Arbeitskraefte. . . trotz der bevorstehenden Aussiedlung, Polen und Juden in Frage kommen."

(28) Obwohl FAUST sechs eidesstattliche Erklaerungen vorlegte, die saemtlich dem Beweismaterial der Verteidigung beigelegt wurden, hat er niemals das Memorandum vom 25. Januar 1941 erwachnt (DUERRFELD Exh. 15, 19, 21, 42, 43 und 44).

(29) Wenn AMBROS eine eidesstattliche Erklärung vorlegte, die die Aktennotiz ueber das Telefongespraech bestaetigte, hat er niemals FAUST's schriftlichen Bericht erwaeht (AMBROS Exh.77).

(30) Ebenso beschaeftigt sich ALT's eidesstattliche Erklaerung lediglich mit der K Konferenz und der Aktennotiz ueber das Telefongespraech, die der Konferenz angeblich vorgelegen hat, ohne dass jedoch ein Wort ueber die Existenz des FAUST'schen schriftlichen Berichts erwaeht wird.

(31) Schliesslich hat AMBROS selbst den FAUST'schen Bericht



an SANTO weder vorgelagt, noch ihn waehrend seiner gesamten Aussage in Verbindung mit der Wahl des Standortes Auschwitz fuer das Bauvorhaben ueberhaupt erwaeht. Und doch war dieser schriftliche Bericht FAUST's staendig in den Haenden der Verteidigung, bis er nach Ludwigshafen zurueckgesandt wurde, als Folge der Entscheidung des Gerichts ueber den von der Anklage eingebrachten Antrag betreffend der aus Ludwigshafen entformten Akten.

(32) Trotz der Tatsache also, dass jede Inspektionsreise in Verbindung mit dem Auschwitzer Bauvorhaben das Arbeitsproblem und die Existenz eines Konzentrationslagers (siehe oben und Ankl.Exh.1415) beruehrte - ebenso FAUST's schriftlicher Bericht vom 25. Januar 1941 diesen Gegenstand behandelte - wird nichtsdestoweniger behauptet, dass die K Ausschuss Konferenz vom 30. Januar, als sie den Standort Auschwitz vorschlug, sich in ruohrender Unkenntnis ueber die Existenz des Konzentrationslagers der Verfuegbarkeit seiner Insassen befand.

(33) Die Tatsache, dass die "K" Ausschuss Konferenz sich in Wirklichkeit nicht auf die Aktennotiz ueber das Telefongespraech zu stuetzen brauchte, wurde von Dr. ALT beim Kreuzverhoer zugegeben, als er ausagte:

"Gewiss existierten auch andere Dokumente. Sonst haette Dr. AMEROS im K Ausschuss nicht so viele Vorschlaege ueber die Beschaffung von Koks und Kalk von verschiedenen Orten machen koennen." (Prot.13254).

Dr. ALT fuegt jedoch hinzu, dass er sich bei der Abgabe der eidesstattlichen Erklaerung an kein anderes offizielles oder anderes Dokument erinnerte.

(34) Ebenso versicherte Dr. ALT in seiner eidesstattlichen Erklaerung, dass der moegliche Einsatz von K.Z.-Haeftlingen bei der Auswahl des Platzes nicht die geringste Rolle spielte, da die Existenz des Ausch-

Auschwitzer Konzentrationen zu dem Zeitpunkt, als die Entscheidung fiel, vollkommen unbekannt war (AMEROS Exh.80). Nach Vorlage von Berichten ueber Inspektionsfahrten die vor der Konferenz vom 30. Januar 1941 zur Verfuegung standen, gab er im Kreuzverhoer die "Möglichkeit" zu, dass AMEROS, EISEL, MACH und auch er selbst "frueher etwas ueber das Auschwitz K.Z. gehoert" haetten (Prot.13247-13269).

(35) Dass sich der X Ausschuss des Arbeiterproblems bewusst war, geht klar aus einem Absatz hervor, dessen Bedeutung zu erklären die Verteidigung bisher unterlassen hat. Das Protokoll der X Ausschuss Konferenz sagt (AMEROS Exh.79):

"Schwieriger liegen die Verhältnisse fuer den Arbeitsinsatz. Zur Beschaffung der Arbeitskraefte wird enge Fuehrungnahme mit dem Reichskommissar fuer die Festigung des deutschen Volkstums notwendig sein. Auch fuer Siedlungsbeuten werden grossere Aufwendungen erforderlich sein."

(36) Im Kreuzverhoer gab Dr. ALT zu, dass der Reichskommissar fuer die Festigung des deutschen Volkstums niemand anderer als HIMMLER war (Prot.13263).

(37) Dr. ALT's "vor einigen Monaten" gemachte Entdeckung (Prot.13263), dass der Reichskommissar fuer die Festigung des deutschen Volkstums niemand anderer als der Reichsfuehrer-SS HIMMLER war, kommt naturgemuess etwas spaet angesichts der Tatsache, dass keiner seiner Kollegen sich durch den anderen Titel verblueffen liess. Genau einen Tag nach der Konferenz vom 30. Januar 1941 also, und zwar am 31. Januar 1941, geben FAUST und SANTO unter besonderer Bezugnahme auf das Auschwitz K.Z. an, dass die "Beschaeftigung von Haeftlingen bei dem Bauvorhaben nach Verhandlungen mit dem Reichsfuehrer-SS moeglich sei" (Ankl.Exh. 1412. oben).

(38) Und nach der von dem Angeklagten AMEROS waehrend der folgenden vier Tage (1. bis 4. Februar) unternommenen Inspektionsreise wurde das Problem der Arbeiterbeschaffung nach der erfolgten Aussiedlung der Polen und Juden eindeutig wie folgt geschildert:

"Es ist deshalb notwendig, sobald wie moeglich mit dem Reichsfuehrer-SS in Verbindung zu treten, um mit ihm die notwendigen Massnahmen zu besprechen." (Ankl.Exh.1415)



(39) Das klarste Bild ueber die Begleitumstaende, die zur Wahl Auschwitz' als Standort fuehrten, und ueber die Zustimmung dazu seitens der Angeklagten, in voller Kenntnis und in teilweiser Beruecksichtigung der vorhandenen Moeglichkeiten der Arbeiterbeschaffung aus dem Konzentrationslager, wird von den an diesem Projekt unmittelbar interessierten Angeklagten geliefert.

a) Der Angeklagte KRAUCH sagte aus (Ankl.Exh.1420):

"Die IG Farben konnte zur Errichtung einer Dunafabrik an sich nicht gezwungen werden. Das Reichswirtschaftsministerium that an sie mit dem diesbeueglichen Antrag heran. Der Vorstand von IG Farben - bestehend aus den Herren SCHMITZ, als Vorsitzender, ILGNER, von SCHNITZLER, von KNIERIEM, Christian SCHNEIDER, TER MER, AMEROS, BUNTEFISCHE etc. - konnte den Bau beschliessen oder ablehnen. . . .

AMEROS bestimmte Auschwitz und berichtete an den Vorstand, dass fuer seine Wahl das Vorhandensein von Kohle, Wasser, Kalk, Untergrund und Arbeitskraefte ausschlaggebend gewesen sei. . . .

Nachdem der Vorstand der IG Farben beschlossen hatte, den Bau in Auschwitz durchzufuehren, wurde die dort ansaessige polnische und juedische Bevoolkerung ausgesiedelt und der Bau von der Bauabteilung der IG Farben Ludwigshafen in Angriff genommen. Der Vorstand der IG Farben war davon unterrichtet, dass eine zwangsmaessige Entvoolkerung des Gelandes vor sich gegangen ist. . . .

Der Vorstand der IG Farben, insbesondere die Vorstandsmitglieder SCHNITZLER, TER MER, AMEROS und BUNTEFISCHE, wusste von dem Einsatz von Kz-Haeftlingen in dem IG Dunawerk Auschwitz und erhob dagegen keinen Einspruch."

(PE 1420)

b) Der Angeklagte BUNTEFISCHE hat ausgesagt (Ankl.Exh.1416):

"Im Winter 1940/41 schlug Otto AMEROS im Zusammenhang mit dem Amt KRAUCH und dem Vorstand der IG Farbenindustrie als gunstiges Gelaende Auschwitz vor mit der Begruendung, dass die dortigen Bodenverhaeltnisse, das Vorhandensein von Kohle, Wasser und Kalk, sowie nach Aussage des Arbeitsamtes das Vorhandensein von Arbeitskraeften - z.B. Polen und Haeftlingen des Konzentrationslagers Auschwitz - die Errichtung der Buna-fabrik bzw. die spaetere Produktion beguenstigen. 1941 wurden in einer Vorstandssitzung die Gelder fuer die neu zu errichtende IG Auschwitz bewilligt."

c) Der Angeklagte SCHNEIDER sagte aus (Ankl.Exh.1418):

"Winter 1940/41 fuhr Otto AMEROS nach Auschwitz, um sich das Ge-  
laende anzusehen. Nach Rueckkehr hat er im TEA und im Vorstand  
ueber seine Reise nach Auschwitz berichtet. . . .

In einer TEA Sitzung wurden auch die durch das Vorhandensein des  
KZ Auschwitz zur Verfuegung stehenden Arbeitskraefte erwacht.  
In diesem Zusammenhang kann der Name HDESS gefallen sein. Dieser  
Name wurde spaeter oeffter genannt. . . . Weder TEA noch Vorstand  
erhoben einen Einwand dagegen, dass das vierte Dunawerk mit Hilfe  
von Kz-Haeftlingen aufgebaut wird."

(PE 1418)

(40) Die Haltung der IG Farben zu dem Auschwitzer Unternehmen ist in  
Protokoll der Eroeffnungssitzung der IG Auschwitz vom 7 April 1941  
niedergelegt (Ankl.Exh.1430):

"Die IG Farbenindustrie hat mit dem Projekt Auschwitz einen Plan  
zu einer neuen Werksgruendung grossen Ausmasses entworfen. Sie  
ist entschlossen, unter Einsatz ihrer besten Kraefte ein lebendi-  
ges Werk aufzubauen, das sich ebenso gestaltend auswirken wird  
wie die vielen Anlagen im Westen und Mitteldeutschland. Die IG  
Farbenindustrie erfuellt damit eine hohe Pflicht, auf ihre Weise  
mitzuwirken und alle Kraefte einzusetzen, dass diese Industrie-  
gruendung zu einem festen Eckpfeiler wird fuer ein kraeftiges,  
gesundes Deutschtum im Osten. Dr. AMEROS schliesst mit der Bitte,  
dass alle Aemter der IG Farbenindustrie bei dieser schweren, aber  
hoffnungsvollen Aufgabe ihre Unterstuetzung gewahren."

(PE 1430)

(41) Auschwitz sollte nicht nur einen Stuetzpunkt im Osten sichern,  
sondern das ganze Projekt war vom Gesichtspunkte der finanziellen  
Arrangements und kuenftiger finanziellen Aussichten aus so gunstig,  
dass die IG Farben sich nicht der Moeglichkeiten der staatlichen Fi-  
nanzierung bediente, wie sie es im Falle anderer Kriegsprojekte getan  
hatte (Montan), sondern es vorzog, etwa 600 Millionen Mark aus eigenen  
Mitteln zu investieren. (Ankl.Exh.1418; Ankl.Exh.1419; Ankl.Exh.  
1421).



- b) Die Angeklagten ergriffen bei der Beschaffung von Konzentrationslager-Insassen fuer den Bau des Werkes die Initiative und drangen waehrend der Dauer der Bauarbeiten auf Zuweisung immer grosserer Zahlen gesunder Haeftlinge.

(42) Zur Zeit ihrer ersten Infahrt nach Auschwitz berichteten die Farben Ingenieure Dr. SANTO und AUST, dass das bestehende KZ vergrossert wurde und deuteten an, dass (Ankl.Exh.1412):

"Beschaeftigung von Haeftlingen bei dem Bauvorhaben nach Verhandlungen mit dem Reichsfuehrer-SS moeglich waere."

(43) Am 13. Februar 1941 notiert der von AMEROS nach seiner Inspektionsreise nach Auschwitz vorgelegte Bericht wiederum die Tatsache, dass (Ankl.Exh.1415):

"durch die Aussiedlung der Polen und Juden im Fruehjahr 1942 ein grosses Vakuum an Arbeitskraefte entstehen werde. Es ist daher notwendig, sobald wie moeglich mit dem Reichsfuehrer-SS in Verbindung zu treten, um mit ihm die notwendigen Massnahmen zu besprechen."

(44) Man wird sich erinnern, dass bei der Beamtung des Standortes Auschwitz festgestellt worden war:

a) "Dass die Juden und Polen bei der Errichtung von Industrieanlagen ausgesiedelt wurden."  
(Ankl.Exh.1410,1411).

b) "Dass jene Polen zurueckgehalten wurden, die bei den Bauarbeiten verwendet werden koennten."  
(Ankl.Exh.1415)

c) "Dass an den Reichsfuehrer-SS in der Frage der Beschaeftigung von KZ Insassen herangetreten werden sollte."  
(Ankl.Exh.1412)

(45) Am 18. Februar 1941 erteilte Reichsmarschall GOERING den folgenden Befehl an Reichsfuehrer-SS HIMMLER (Ankl.Exh.1417):

Final Brief of the  
Prosecution - Part IV

"Zur Sicherstellung des Arbeiterbedarfs und der Unterbringung der Arbeiter fuer den Anfang April beginnenden, in hoechstmoeglichem Tempo durchzufuehrenden Bau des Buna-Werkes Auschwitz in Ostoberschlesien bitte ich, folgende Massnahmen zu treffen:

"1. Rasche Aussiedlung der Juden in Auschwitz und weiterer Umgebung, insbesondere zwecks Freimachung ihrer Wohnungen fuer die Unterbringung der Bauarbeiterschaft fuer das Buna-Werk.

"2. Vorlaeufige Belassung der als Bauarbeiter in Betracht kommenden Polen in Auschwitz und weiterer Umgebung in ihren bisherigen Wohnstuetten bis zur Beendigung der Bauarbeiten.

"3. Bereitstellung einer moeglichst grossen Anzahl von Baufach- und Bauhilfsarbeitern fuer den Bau des Buna-Werkes aus den benachbarten Konzentrationslager.

"Der Gesamt- Bau- und Montage-Arbeiterbedarf wird auf der Baustelle je nach erreichbarem Bautempo 8.000 - 12.000 Mann erreichen.

"Ueber Ihre diesbezuglichen, in Verbindung mit dem GB-Chemie zu treffenden Anordnungen bitte ich Sie, mich baldmoeglichst zu unterrichten." (PE 1417)

(46) Die Tatsache, dass der GOERING-Befehl allen Anforderungen entsprach, die die Farben-Fachmaenner auf Grund ihrer Erkundungen ueber Auschwitz als Baustelle fuer die vierte Buna-Fabrik aufstellten, ist kein Zufall. Der Angeklagte KRAUCH, der an der Planung und an der Ausfuehrung der vierten Buna-Fabrik teilnahm, war genau unterrichtet auf Grund der Erkundungen, die der Angeklagte MBROS durch seine Untergebenen in Auschwitz hatte einziehen lassen, und auf Grund seiner persoenlichen Inspektion an der Baustelle selbst. Gelegentlich der Sitzung am 6. Februar 1941 gab der Angeklagte MBROS all die erforderlichen Einzelheiten ueber Auschwitz an, die den Angeklagten KRAUCH ermoeglichten, den Reichsmarschall GOERING ueber die Notwendigkeiten und Anforderungen der IG-Farben in Auschwitz zu unterrichten. (PE 1419)

(47) Dass der GOERING-Befehl auf das Ansuchen des Angeklagten KRAUCH erlassen wurde, kann nicht laenger bezweifelt werden. Am 25. Februar 1941, gerade eine Woche nach dem Erlass des GOERING-Befehls, schreibt der Angeklagte KRAUCH an den Angeklagten AMEROS folgendes ueber die "Buna-Fabrik Auschwitz" (PE 2199):

"Auf meine Bitte hin hat der Herr Reichsmarschall vor wenigen Tagen durch besondere Erlasse an die beteiligten obersten Reichsbehörden die Dringlichkeit noch einmal ganz besonders betont..... Der Herr Reichsmarschall hat in diesen Erlassen den beteiligten Dienststellen die umgehende Deckung ihres Facharbeiter- und Arbeiterbedarfs .... zur Pflicht gemacht."

AMEROS setzte KRAUCH's Weisungen sofort in die Tat um:

"Die grundsatzlichen Gesichtspunkte dieses Schreibens bitte ich, Ihren massgebenden Mitarbeitern nachdruecklichst und ernstestens zur Kenntnis zu geben."

Durchschlaege wurden an ter MEER, SIMPO, FAUST, MACH, BISFELD, HEIDEBROEK und DUERRFELD (das Spitzenpersonal von Auschwitz) weitergeleitet. Die Frage der Fuehrungnahme mit dem Reichsfuehrer-SS fuer Arbeitsfragen war gelöst worden, da KRAUCH erwacht, dass der GOERING-Befehl an die "beteiligten hoechsten Dienststellen ..... ihren Facharbeiter- und Arbeiterbedarf zu decken" erlassen wurde.

(48) Dr. WIRTH, der in KRAUCH's Dienststelle beschäftigt war, teilte AMEROS am 24. Maerz 1941 mit (mit Durchschlagen an ter MEER, DUEMMFISCH und DUERRFELD), dass:

"Auf meinen Antrag und auf Weisung des Herrn Reichsmarschalls"

der Reichsfuehrer-SS eine Weisung bezueglich aller Punkte des GOERING-Befehles erlassen hatte. (PE 1422)

(49) Am 3. April 1941 erliess Ludwigshafen ein Farben-Rundschreiben bezueglich der "Buna-Fabrik IV", worin es heisst, dass nach einem Schreiben von KRAUCH, vom 25. Februar 1941 (PE 2201)

"samtliche staatlichen und SS-Dienststellen, die in dem Gebiet um Auschwitz eine bestimmte Aufgabe zu erfuellen haben, haben Anweisung erhalten, das Bauvorhaben in jeder erdenklichen Weise zu foerdern."



(50) Auf Grund der drei erwähnten Dokumente ist es unnötig die Behauptung des Angeklagten KRAUCH zu diskutieren, dass er dagegen war, dass Konzentrationslager-Häftlinge fuer den Bau der IG-Auschwitz verwendet werden, und es ist auch nicht nötig, auf die Verteidigung solcher Leute wie ter MEER, BUETEFISCH und DUERRFELD einzugehen, nachdem insoweit als sie "gezwungen" waren Konzentrationslager-Häftlinge zu beschäftigen auf Grund der Befehle der höchsten Behörden, GOERING und HIMMLER. Die Tatsache, dass beide Befehle von GOERING und HIMMLER auf Antrag KRAUCHs erlassen wurden und dass sie hinsichtlich ihres Inhalts nicht an die IG-Farben, sondern an die verschiedenen Dienststellen gerichtet sind mit der Inordnung die IG-Farben zu unterstützen, untergräbt die Lage der Angeklagten hinsichtlich des "höheren Befehls".

(51) Die erste tatsächliche Besprechung mit der SS zur Beschaffung von Konzentrationslager-Häftlingen fuer den Bau der IG-Auschwitz fand am 20. März 1941 zwischen dem Angeklagten BUETEFISCH fuer die IG und SS-Obergruppenführer WOLFF fuer die SS statt. Dr. FAUST, Oberbauingenieur der IG-Auschwitz, der zusammen mit DUERRFELD an der Besprechung teilnahm, sagt aus, dass BUETEFISCH zunächst die Verhandlung leitete und dass DUERRFELD dann an WOLFF die Frage stellte:

".... in welcher Weise das Konzentrationslager Auschwitz die IG-Auschwitz unterstützen koenne, und zwar in Bezug auf Lieferung aus den verschiedenen Werkstätten des Konzentrationslagers ... und in Bezug auf die Zurverfügungstellung von Arbeitskräften."  
(PE 2349)

(52) Die Tatsache, dass es die IG-Farben war, die Häftlinge anforderte, anstatt gezwungen zu werden, diese anzunehmen, geht klar hervor aus BUETEFISCHs eigener Zeugenaussage bezüglich dieser Besprechung, als SS-Obergruppenführer WOLFF dem BUETEFISCH antwortete: "Ich kann Ihnen kein bindendes Versprechen geben." (Tr.8773)

(53) Gerade einen Tag bevor der Angeklagte BUETEFISCH mit SS-Obergruppenfuehrer POHL ueber die Verfuegungstellung von Konzentrationslager-Haeftlingen verhandelte, trat die TIA zusammen, hoerte die Berichte des Angeklagten WIEROS ueber Auschwitz und die des Angeklagten BUETEFISCH ueber den Bau der Leuna-Fabrik, die mit der Auschwitzer Bauxitfabrik vereint werden sollte. Die TIA bewilligte sodann 19.500.000.-- RM fuer die IG-Auschwitz. An dieser Besprechung nahmen teil: ter MEER als Vorsitzender, SCHLIDER, BUETEFISCH, WIEROS, MURSER, LAUFENSCHLAGER, JAHNE, HOERLEIN, KUEHNE, DUERGIN, GAJEWSKI, und von KRIEGER.

(54) Am 24. Maerz 1941, gelegentlich der ersten Bau-Konferenz der IG-Auschwitz, konnte DUERRFELD die Mitteilung machen, dass 700 Haeftlinge von Konzentrationslager Auschwitz zum Einsatz an der Baustelle zugesagt worden seien und ferner:

"Es liegt eine Zusage vor, dass das Hauptamt der SS-Reichsfuehrung sich dafuer verwenden will, innerhalb der Konzentrationslager der SS einen Austausch derart herbeizufuehren, dass Facharbeiter aus dem Reich nach Auschwitz gezogen werden." (PE 1426)

(55) Am 27. Maerz 1941 kam der Angeklagte DUERRFELD mit dem Lagerkommandanten des Auschwitzer Konzentrationslagers zusammen. DUERRFELDS Bericht ueber die Unterredung enthaelt die folgenden bemerkenswerten Punkte: (PE 2200):

(1) Nach den Vorbesprechungen am 20. Maerz 1941 zwischen BUETEFISCH und OLFF, in Gegenwart von GLUECKS aus Oranienburg, Konzentrationslager-Inspektor, und HOEFNER aus Berlin, Inspektor fuer die Zuteilung von Haeftlingen, sollten die Einzelheiten der Art und Weise, in welcher die Konzentrationslager-Haeftlinge an den Bau der Fabrik helfen koennten, besprochen werden.

(2) Das Konzentrationslager zeigte sich bereitswillig den Bau der Fabrik nach Moeglichkeit zu foerdern.

(3) FAUST forderte ungefaehr 1000 Hilfs- und Facharbeiter fuer das laufende Jahr an, wenn sie verfuegbar seien.

(4) Die Anforderungen fuer das folgende Jahr wurden mit ungefaehr 3000 Haeftlingen angegeben. (Das Konzentrationslager wird in der Lage sein, diese Anzahl zur Verfuegung zu stellen, wenn es moeglich sein wird, seine Unterkunftsraeume zu erweitern, um eine groessere Zahl von Haeftlingen unterzubringen. Wir verpflichteten uns zu pruefen, ob wir in diesem Zusammenhang helfen koennen).

(5) Da das Konzentrationslager vergroessert werden soll, um Unterkunft fuer ungefaehr 30.000 Haeftlinge zu schaffen, ist es sehr gut moeglich, Arbeiter in einer groesseren Anzahl als oben angegeben zu liefern. Massgebend fuer die Schnelligkeit, mit der Haeftlinge zur Verfuegung gestellt werden koennen, ist die Beschaffung von Eisen und die noetige Anzahl von Kapos. Diese Kapos werden jetzt aus den Reihen der Gewohnheitsverbrecher gewacht und sollen von anderen Konzentrationslagern nach Auschwitz gebracht werden.

(6) Eine Abgabe von 3 RM fuer Hilfsarbeiter und 4 RM fuer Facharbeiter pro Tag ist fuer jeden einzelnen Haeftling zu leisten. Dies schliesst alle Ausgaben ein und wir werden keine weiteren Ausgaben bezueglich der Haeftlinge haben, nur dann, wenn eine kleine Zulage als Loohn zur Arbeit verteilt wird.

(7) Da die noetige Anzahl von Arbeitern vom Konzentrationslager zur Verfuegung gestellt werden kann, wuerde es unpraktisch sein, zur gleichen Zeit Kriegsgefangene einzusetzen.

Zusammenfassend stellt DUERRFELD fest, dass der gesamte Vorgang in herzlichen Einvernehmen stattgefunden hat; von beiden Seiten wurde der Wunsch ausgedrueckt, gegenseitige Hilfe im groesstmoeglichsten Masse zu leisten.



(56) Auf der zweiten Bau-Konferenz am 1. April 1941  
des IG-Auschwitz wird berichtet, der SS-Kommandant HOESS  
"zeigt sich bereit, die Bauleitung nach be-  
sten Kräften zu unterstützen." (PE 1428)

(57) Am 7. April 1941, gelegentlich der Grunder-  
versammlung fuer die IG-Auschwitz-Werke, erklarte MIEROS  
auf Grund des Befehls des Reichsfuehrers-SS folgendes  
(PE 1430):

"Fuer die Bauzeit ist eine weitgehende Unter-  
stuetzung durch das Konzentrationslager  
Auschwitz auf Grund eines Befehls des  
Reichsfuehrers-SS in Aussicht gestellt.  
Der Lagerkommandant, Sturmbannfuehrer  
HOESS, hat bereits die Vorbereitung fuer  
den Einsatz seiner Kräfte getroffen."

(58) Am 12. April 1941 schrieb MIEROS an den MIER  
folgendes (PE 1431):

"Unsere neue Freundschaft mit der SS wirkt  
sich sehr segensreich aus."

"Anlaesslich eines Abendessens, das uns die  
Leitung des Konzentrationslagers gab, haben  
wir weiterhin alle Massnahmen festgelegt,  
welche die Einschaltung des wirklich hervor-  
ragenden Betriebes des Konzentrationslagers  
zugunsten der Bau-Werke betreffen." (PE 1431)

(59) Am 22. April 1941 berichtete IG-Farben an das  
Reichsarbeitsministerium, das Konzentrationslager Auschwitz  
"wird uns unterstuetzen, indem es uns Haeftlinge zur Ver-  
fuegung stellt". Die Beziehungen zwischen Farben und SS  
sind unmittelbare und das Reichsarbeitsministerium wird  
nur durch Farben benachrichtigt. (PE 1984)

(60) Im Maerz 1941 inspizierten Vertreter der IG-  
Farben die russischen Kriegsgefangenenlager des Konzen-  
trationslagers. Obgleich die russischen Gefangenen einen  
"durchwegs klaeglichen Eindruck" machten, erklarte Farben,  
sie wuerden diese Kriegsgefangenen an der Baustelle nur  
unter der Bedingung einsetzen, dass "sie im Konzentrations-  
lager Auschwitz untergebracht werden" und dass "nur gesun-  
de und kraeftige Kriegsgefangene zugewiesen werden, die  
vollkommen arbeitskraeftig sind." (PE 2207)

(51) Wenn hinsichtlich der Initiative der IG Farben noch der leiseste Zweifel geherrscht hatte, so wurde ihm der Bericht vom 28. März 1942 über die in Anwesenheit AMEROS' und DUERRFELD's gehaltene Besprechung völlig zerstreuen, der wie alle anderen Baukonferenzberichte an die TRA, an TER MER, SCHMITZ, SCHNEIDER und BUEFELFISCH ging. Wenn man bedenkt, dass bei der ersten Besprechung zwischen DUERRFELD und dem Kommandanten des Auschwitz Konzentrationslagers festgelegt wurde, dass "die Beschaffung von Eisen und die Erstellung der erforderlichen Anzahl von Kapos der entscheidende Faktor dafür ist, wie schnell die Häftlinge zur Verfügung gestellt werden können", dann ist folgender Teil des Bauberichtes bemerkenswert:

"DUERRFELD wird an Prof. Dr. KRAUCH herantreten, damit dieser beim General HANNECKEN entsprechend berichtet und den Hinweis gibt, dass der GOERING-Erlass wertlos ist, wenn nicht Kontingente freigemacht werden. Für Auschwitz ist das tragbare Minimum 30 000 t Roheisen. Auf der Baustelle soll selbst in Anbetracht dieser schwierigen Situation alles getan werden, um die Einrichtung der Baustelle weiter im geplanten Sinne voran zu bringen. Die Barackenlager und sonstigen sozialen Massnahmen zur Aufnahme eines Arbeitereinsatzes von 15 000 Mann im Frühjahr wollen weiter gebaut werden." (Ankl.Ex. 1440)

(52) Am 20. Juli 1942 wurde der IG Farben-Bauleitung in Auschwitz mitgeteilt, dass "keine weiteren Häftlinge in Betriebsgelände eingesetzt werden, da es wegen Infektionsgefahr notwendig war, ein Ausgabelverbot im Lager zu erlassen." (P.B.1991). Am 24. Juli hat die Bauleitung der IG Farben bereits den Kommandanten des Konzentrationslagers ersucht, seinen Einfluss dahin geltend zu machen, dass "wir vom Oberführer SCHMELT Juden bekommen." (Ankl.Ex. 1991)

(63) Der leitende Bauingenieur der IG in Auschwitz gibt einen gewissen Aufschluss ueber die Frage der Beschaffung von KZ Haeftlingen fuer die IG Auschwitz. Er erklaert: (P.E.2349)

"Die Zahl der anfangs vom Kz zur Verfuegung gestellten Haeftlinge hielt sich in sehr engen Grenzen, trotzdem Walter DUERRFELD, der das IG Werk Auschwitz so schnell wie moeglich aufbauen wollte, sich auch bereits am Anfang sehr stark um Arbeitskraefte aus dem Kz bemueht hat." (P.E.2349)

(64) Im Kreuzverhoer entkraeftet er voellig die Behauptung der Verteidigung, dass der SS daran gelegen war, der unwilligen IG Farben-Gesellschaft Haeftlinge aufzudraengen. FAUST gibt zu, dass die mit der Leitung des Auschwitzer Konzentrationslagers betraute SS der IG "niemals so viele Haeftlinge zur Verfuegung stellte wie die IG verlangt hatte."

(65) Am 24. Maerz 1943 verzeichnet das Protokoll der dreifundzwanzigsten Beabesprechung unter dem Titel "Haeftlingseinsatz": (Ankl.Exh. 1503)

"Mit Obergruppenfuehrer SCHMITT in Vertretung von Obergruppenfuehrer POEL wurde verabredet, dass bis 1. 6. die Zahl auf 5 000 und spaeter auf 6 000 erhoert wird." (P.E.1503)

(66) Am 9. September 1943 besagt das Protokoll der fuenfundzwanzigsten Beabesprechung: (Ankl.Exhibit 1509)

"Im Lager sind 6 500 Haeftlinge, von denen effektiv auf der Baustelle 5 400 im Einsatz stehen. . . . Einer Erhoehung der Belegschaft steht in erster Linie die Schwierigkeit der Unterbringung entgegen." (P.E.1509)

(67) Am 10. Dezember 1943 heisst es im Protokoll der sechsfundzwanzigsten Beabesprechung: (Ankl.Exh.1511)

"Fuer den Haeftlingseinsatz wird eine Anzahl von 7 200 erstrebt. Haeftlinge sind ferner auf Aussenbaustellen Guenthergrube und Janina eingesetzt." (P.E.1511)



(68) Die IG ergriff nicht nur bei der Beschaffung von KZ Häftlingen fuer den Bau ihres Bunkerwerkes die Initiative, sie war sogar so vorsorglich, sich Zusagen von den hoechsten Regierungs- und SS-Stellen zu verschaffen, dass ihr Bedarf an KZ Arbeitskraeften auch gedeckt werden wuerde. Nachdem die IG ihre Beziehungen mit den verschiedenen Stufen der SS-Behorden einschliesslich des Lagerkommandanten gefestigt hatte, nutzte sie ihre "neue Freundschaft mit der SS" aus, um mehr und mehr KZ Häftlinge zugewiesen zu erhalten - eine Zahl, die von 700 in 1941 bis Ende 1943 auf 7 000 anstieg.

(69) Ausserdem war die IG nicht zufrieden, bloss Häftlinge zu erhalten. Es mussten "gesunde" Häftlinge sein. Diese Forderung war infolge der Auschwitzer Verhaeltnisse fuer viele Tausende das Todesurteil. Die Auswirkungen dieser Politik der IG sind weiter unten ausfuehrlicher entwickelt. Dass es die Politik der IG war, dass nur die Arbeitsfaehigen in der Auschwitzer Fabrik bleiben konnten, ist unumstoesslich bewiesen. (siehe z.B.: Ankl.Exh.1468; Ankl.Exh.1480; Ankl.Exh.1525; Ankl.Exh.1519; Ankl.Exh.1924).

- c) Die Verhältnisse, unter denen die Sklavenarbeiter, besonders KZ Häftlinge an der Baustelle der I.G. und in dem I.G. Betrieb arbeiteten, waren unmenschlich und hatten den Tod tausender Menschen zur Folge.

(70) Die IG in Auschwitz begann im April 1941, Häftlinge zu verwenden, als man zuerst mit dem Bau begann. Da diese Häftlinge je sieben Kilometer hin und zurück zum Haupt-Baulager Auschwitz zu Fuss gehen mussten (Ankl.Exh.1419) und dadurch täglich mehrere Arbeitsstunden verloren, wurde Mitte 1942 beschlossen, ein eigenes Konzentrationslager der IG, Monowitz, zu errichten. Die Errichtung dieses Lagers und die Beschaffung von Geldmitteln fuer diesen Zweck wurde in der TEA und im Vorstand besprochen und dort auch genehmigt, nachdem DUERRFELD, HUBERFISCH, und AMEROS sie befuerwortet hatten. (Ankl.Exh.1419, Ankl.Exh.1420).

(71) Im Zuge des Uebereinkommens zwischen der IG und der SS war die IG verantwortlich fuer die Verpflegung, Unterbringung und Ueberwachung der KZ Häftlinge, die beim Bau des Baulageres und bei der Arbeit in der Fabrik beschaeftigt waren. Fuer das Wohl der Arbeiter, sei es auf der Baustelle, in der Fabrik oder in Monowitz, war die IG zustaeendig.

Der Angeklagte KRÄUKE sagte aus:

"Das Baulager Auschwitz war nicht nur fuer die Unterbringung sondern auch fuer die Verpflegung und Beaufsichtigung der Konzentrationslagerhäftlinge an ihrer Arbeitsstelle verantwortlich." (PE 1420).

Der Angeklagte SCHNEIDER sagte ueber die Verantwortlichkeit:

"Von dem Bestand des KZ Monowitz, einem sog. Ableger des KZ Auschwitz, erfuhr ich von Walter DUERRFELD, der mir in Leuna erzaehlt hat, dass die IG - abgesehen von dem bereits vorhandenen KZ Auschwitz - ein eigenes Konzentrationslager errichtet hatte, sowie dass die IG fuer Verpflegung und Unterkunft der Häftlinge verantwortlich sei." (PE 1418).

(72) Der Beweis dafuer, dass die Lebens- und Arbeitsbedingungen bei der IG in Auschwitz unertraeglich ~~was~~ ist ueberwaeltigend. Ein Zeuge nach dem anderen erschien vor dem Gerichtshof und beschrieb die Unterbringung, die Verpflegung, die Kleidung, die Art der Arbeit und die Behandlung der Haeftlinge waehrend der Arbeit so deutlich, dass es fuer die Zwecke dieses Schriftsatzes unnoetig erscheint, mehr als ganz wenige Teile dieses Beweismaterials hier anzufuehren.

VERPFLEGUNG

(73) Es mag zweckdienlich sein, von vornherein aufzuzeigen, was die Zeugen der Verteidigung, einschliesslich des Auschwitz IG Farben-Personals, ueber die Zulaemlichkeit der Verpflegung gesagt haben.

Helmut SCHNEIDER, stellvertretender Leiter der Personal- und Sozialabteilung berichtete ueber den folgenden Vorfall:

"Ich sass gerade in meiner Ruero-Baracke und ass einen Apfel. Ich oeffnete das Fenster, um das Kornhaus des Apfels aus dem Fenster zu werfen, und KZ Haeftlinge reinigten gerade die Strassen vor der Baracke oder verrichteten irgendeine andere Arbeit, sie moes-  
sen offenbar hungrig gewesen sein, denn <sup>sie</sup> stuerzten sich auf das Kornhaus und stritten sich herum. Das war eine Szene aus den allerersten Tagen und Wochen der IG in Auschwitz, eine Szene, die ich, wenn ich so sagen darf, nicht als typisch fuer die Zeit der Beschaeftigung dieser Leute ansehen moechte." (Prot.11417).

(74) Andere leitende Herren der IG Farben in Auschwitz wie z.B. BRAUS, (Ankl.Exh.1994) DEMMING, (Ankl.Exh.2348) der mit der Leitung des gesamten Barackenbaus bei der IG Auschwitz betraute Ingenieur, und REINHOLD (Prot.14450) beschreiben die Haeftlinge verschiedentlich als ausgemergelt und allgemein unterernaeuert.

(75) Der stellvertretende Leiter der gesamten Lebensmittelversorgung bei der IG gab in Kreuzverhoer zu, dass die volle Verantwortlichkeit fuer die Verpflegung der KZ-Haeftlinge von der SS an die IG Farben uebertragen worden war und dass der Knocheninspektor der IG ebenso wie



Zutritt zu den Kuechen in Monowitz hatte. Er gab ebenfalls zu, dass die Haeftlinge Pferdefleisch und Freibankfleisch erhielten und dass sogar die sogenannte Bunasuppe nicht so gut <sup>war</sup>/wie die Lagersuppe, die aus anderen Lagern kam und dass diese Suppe oft aus rostigen Gefaessen gegessen wurde. Auf die ausdrueckliche Frage:

"Hatten Sie, als Sie bei der IG in Auschwitz waren, den Eindruck dass die Haeftlinge nicht die Verpflegung erhielten, die sie benoetigten, um die von ihnen geforderte schwere Arbeit zu verrichten, oder nicht? Also hatten Sie diesen Eindruck oder nicht?"

antwortete er "Ja, ich hatte diesen Eindruck." (Prot.14443)

(76) Das wahre Ausmass der Verantwortlichkeit der IG fuer die voellig unzureichende Ernahrung der Haeftlinge offenbarte sich waehrend des Kreuzverhoers des Zeugen der Verteidigung ULITZKA, eines Angestellten einer Baufirma, die fuer die IG in Auschwitz arbeitete. Er hatte ausgesagt, dass das Tempo beim Ausheben eines bestimmten Grabens ausserst wichtig war. Aus diesem Grunde teilte er den dreissig Haeftlingen, die in dieser Gruppe arbeiteten, taeglich eine zusaeztliche Mahlzeit zu. Der Zeuge ULITZKA sagte aus, dass diese zusaeztliche Mahlzeit ebenso wie die Tatsache, dass die Haeftlinge sehr gut behandelt wurden, es ihm ermoeeglichten, den Graben zur rechten Zeit zu vollenden. Der Anklaeger fragte ihn darauf:

F. "Und als Ergebnis der guten Behandlung und der zusaeztlichen Mahlzeit steigerte sich die Leistung der Haeftlinge um 100% oder noch mehr. Ist das richtig?"

A. "Ja, die Leistung wurde wenigstens normal." (Prot.13793)

Im Rueckverhoer kam es zu folgenden Fragen und Antworten:

F. "Dies ist meine letzte Frage. Wurde die Methode, die Sie hinsichtlich jenes besonderen Falles erklarten, grundsaeztlich angestrebt?"

A. "Nein, sie konnte nicht grundsaeztlich angewendet werden, denn es war nicht leicht, von den Firmen zusaeztliche Lebensmittel zu erhalten. Wir konnten nur auf das rechnen, was uns die IG auf unser Ansuchen bewilligte."

Der Kommissar: Glauben Sie nicht, Herr Verteidiger, dass diese Frage beantwortet wurde?

Dr. GATHER: Bitte lassen Sie ihn den letzten Satz beenden . . .  
Fahren Sie fort.

Zeuge: In diesem besonderen Fall hat der Betriebsführer selbst vorgeschlagen, dass diese zusätzlichen Lebensmittel ausgegeben werden, auch ohne die IG. (Prot.13795/6)

(77) Was die Verpflegung betrifft, so haben selbst die Zeugen der Verteidigung zugegeben, dass die Verpflegung in anderen Konzentrationslagern, wie in Sachsenhausen, Buchenwald und Dachau, besser war, als die der Insassen von Monowitz. (Prot. 13756, 13482)

(78) Während des Kreuzverhoers durch die Anklagevertretung gab einer der Häftlinge die folgende sehr bezeichnende Erklärung ab:

F: "....Während der Zeit, die sie bei der Buna waren, d.h. bei der IG-Farben in Auschwitz und in Monowitz, war dort die Verpflegung im Verhältnis zu den von Konzentrationslager-Insassen erwarteten Arbeiten genügend?

A: Für den unterernährten Insassen war die Verpflegung niemals ausreichend.

F: Werden Sie sagen, Herr Zeuge, dass der Zustand des durchschnittlichen Insassen so gutheissend war, dass die Meister und Vorarbeiter, mit denen er arbeitete, sehen konnten, dass er unterernährt war?

A: Sie mussten es sehen." (Prot. 13757)

(79) So schlecht auch die für die IG-Farben arbeitenden Konzentrationslager-Insassen in Bezug auf Verpflegung gestellt waren, gab der Zeuge der Verteidigung, Dr. STUBBS-BELL, Chef der Handelsabteilung der IG-Farben, im Kreuzverhoer doch zu, dass die Osterbeiter der IG-Farben, die vollkommen unter der Zuständigkeit der IG-Farben standen, noch weniger Verpflegung erhielten, als die unter der Verwaltung der SS stehenden Konzentrationslager-Insassen. (Prot. 14390)

(80) Ohne das Protokoll mit den Aussagen der Konzentrationslager-Zeugen der Anklage belasten zu wollen, soll die Aufmerksamkeit des Gerichtshofs nur auf einige wenige Auszüge aus den Aussagen der britischen Kriegsgefangenen gelenkt werden. Dies geschieht aus dem Grunde, weil der Haupteinwand der Verteidigung der war, dass die durch die Konzentrationslager-Zeugen der Anklage geschilderten schrecklichen Verhältnisse zwar während der ersten Monate in Auschwitz zutreffend gewesen sein moegen, dies aber nach dem Bau des Konzentrationslagers Monowitz und der Übernahme der Verpflegung durch die IG



nicht mehr der Fall war und dass die Insassen 2400-2500 Kalorien tæglich erhielten. Angesichts der Tatsache, dass die britischen Kriegsgefangenen erst im September 1945 in Auschwitz eintrafen, fast ein Jahr nach der Belagerung von Monowitz mit Hæftlingen, moegen einige Aussagen aus ihren Aussagen von Nutzen sein, um die Bedingungen zu beleuchten, unter denen die Insassen nach der von IG-Farben durchgefuehrten Verbesserung lebten.

(81) Von den Zeugen der Anklage sagte PERMIS, britischer Kriegsgefangener, folgendes aus:

"Sie befanden sich in einem schrecklichen Zustand. Alle waren mager und koerperlich unfæhig, die Arbeit zu leisten, zu welcher sie gezwungen wurden." (PE 1463)

DEKINS, britischer Kriegsgefangener, hat ausgesagt:

"Es war schwer zu glauben, dass sie Menschen waren. Sie waren Haut und Knochen." (PE 1475)

Die Aussage GREENHUIS, britischer Kriegsgefangener, lautet:

"Sie (die Hæftlinge) waren alle sehr mager und litten zweifellos an Unterernaehrung. Sie lichen mehr einen Gerippe als einen menschlichen Menschen. Ich weiss nicht, was sie ausser der Mittagszeit bekamen, aber diese Mahlzeit bestand aus einer Schuessel schlecht-riechender Suppe, die unsere Burschen nicht essen wurden. Wir gaben ihnen unsere Suppe, die dicker und besser war als ihre und sie waren so ausgehungert, dass sie um die Suppe, die wir ihnen gaben, kæmpften. Als die Arbeiter erfuhren, dass wir unsere Suppe den Hæftlingen gaben, schlugen sie gressen Schach, und drohten uns, dass wir unsere eigenen Portionen verlieren wurden." (PE 1453)

Und die von DILES, britischer Kriegsgefangener:

"Als Næhrung bekamen sie in der Fabrik Suppe. Diese bestand fast nur aus Wasser mit einigem darin schwimmenden Stueckchen Kohl oder Ruck. Sie war so schlecht, dass wir, wenn wir unsere Suppe erhielten, die dicker war als jene der Hæftlinge - unsere sogenannte bessere Suppe war obensowenig geniessbar - diese unter die Hæftlinge zu verteilen pflegten, welche wir sie kæmpften und rauchten." (PE 1471)

HARTLAND, britischer Kriegsgefangener, sagte aus:

"Es war klar zu sehen, dass die Deutschen die Juden hassten und verachteten. Sie behandelten sie nicht wie Menschen. Die Häftlinge waren lebende Skelette. Sie wurden zu Holz gearbeitet, und man liess sie verhungern. Dies war mir klar wie auch allen anderen, die mit ihnen zusammenarbeiteten." (PE 1519)

Der britische Kriegsgefangene Albert V. SEIL erklärte:

"Eines der schlimmsten Dinge war der Mangel an Essen. Wenn Häftlinge zuerst in der IG-Farben-Fabrik ankamen, sahen sie einigermassen gut aus. Ungefähr einen Monat später war ein wirklicher Unterschied in ihrer Erscheinung wahrzunehmen. Nach zwei oder drei Monaten waren sie kaum wiederzuerkennen und die meisten von ihnen lebten nicht länger als 3 oder 4 Monate." (PE 1456)

Der britische Kriegsgefangene John PISCOTTE sagte schliesslich:

"Sie waren sehr mager, mit Junden bedeckt und buchstäblich in Verhungern. Es ist sehr schwer ihren Zustand zu beschreiben. - Ich hatte noch nichts dergleichen gesehen. - Man kann sich nicht vorstellen, dass Menschen so entsetzlich gequält werden können." (PE 1473)

#### UNTERBRINGUNG

(82) Die Beschreibung der Wohnverhältnisse durch die Belastungszeugen wurde in den hauptsächlichsten Gesichtspunkten von Zeugen der Verteidigung bestritten. Im Kreuzverhör gab ein Zeuge der Verteidigung zu:

dass die Baracken im Konzentrationslager Buchenwald besser waren als die in Monowitz;

dass die Unterbringung der Insassen im Hauptlager Auschwitz besser war als in Monowitz;

dass das Hauptlager Auschwitz grosse Steinmauern besass, die Aborte lagen mit Wasserspülung und Abseleinrichtungen aufwies,

in den Gegensatz zu Monowitz, wo fuer je 6-8 Wohnbaracken nur eine Duschbaracke vorhanden war;

dass in Monowitz zu keiner Zeit genuegend Dusch-  
einrichtungen vorhanden waren;

dass die Abortanlagen in Monowitz ohne Wasser-  
spuendung waren;

dass die Insassen innerhalb ihrer Baracken Wi-  
derbei Aborteinrichtungen besaessen und bei Bedarf nachts  
ihre Baracken verlassen mussten, wobei sie Gefahr liefen,  
von den auf den Fuernnen postierten Wachen erschossen zu  
werden. (Prot. 13755)

(83) Der mit den Unterkunftswesen beauftragte Inge-  
nieur der IG-Farben hat zugereben, dass die Haftlin-  
gen weder fliessendes Wasser noch Dusch-  
einrichtungen besaessen, dass die Abortanlagen der Haftlinge lediglich  
aus behelfsmassigen Latrinen bestanden, mit Abortgruben,  
die von Zeit zu Zeit geleert wurden und die die Insassen  
nur durch Verlassen ihrer Wohnbaracken erreichen konnten.  
Diese Zustände standen in krassem Gegensatz zu den fuer  
die Deutschen bereitgestellten vorhandenen Einrichtungen, die  
heisses und kaltes Wasser, Zentralheizung, anstehendes  
Mobiliar usw. besaessen. (Prot. 13932, 13936, 11893).

(84) Der mit den Unterkunftswesen beauftragte Inge-  
nieur der IG-Farben hat weiter zugereben, dass in den viel-  
grosseren deutschen Baracken etwa 60-80 Arbeiter unterge-  
bracht waren, waehrend die Anzahl der in den kleineren  
Konzentrationslager-Baracken unterbrachten Haftlinge  
160-165 betrug. Er hat "zugereben", dass Monowitz  
"100%ig ueberfuellt" war. Es sollte vermerkt werden,  
dass der Ausdruck "100%ig ueberfuellt" auf der Annahme  
beruht, dass die Belegung einer Baracke nur 160-165 Haft-  
linge betrug. Diese Annahme ist von jedem Konzentrations-  
lager-Zeugen angefochten worden, der fuer die Anklage aus-  
sagte oder eine eidesstattliche Erklaerung abgegeben hat  
und auch von einem britischen Kriegsgefangenen, der Mono-  
witz "besuchte". (Ankl.Exh. 1462). Nach der erbrachten-  
den Beweislast waren in einer einzelnen Baracke in Mono-  
witz nicht 165, sondern zwischen 250 und 400 Haftlinge  
unterbracht. (Ankl.Exh. 1455, 1460; Prot. 3631, 3703,  
3852, 3897).



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(85) Auf Anregung des Angeklagten DUEFFELD waren neben den Baracken zwei Zelte in Monowitz aufgestellt worden. Der Unterkunftsleiter der IG sagte darüber folgendes:

"Es war dies eine Notlösung, die an sich weder vom feuertechnischen noch vom menschlichen Standpunkt aus zu verantworten war. In einem Zelt, in dem nur Holzbettstellen und Stroh waren, konnte jederzeit Feuer ausbrechen." (PE 2348)

(86) Die Berichten aus Auschwitz deuten an, dass die Lage der Fremdarbeiter nicht viel besser war.

"Die nun schon seit Monaten bestehende Baracken-Kolonie wird daher noch weiter andauern. Im Lager II haben wir heute fuer ueber 3000 Mann nur 3 Aschbaracken. Im Lager III, in dem etwa 700 poln. Zwangsarbeiter, 724 Russen und 1040 russische Frauen untergebracht sind, haben wir ueberhaupt keine Aschbaracke." (PE 1992)

(87) In Bezug auf die Baracken folgen Auszüge aus den Aussagen mehrerer vor dem Gericht erschienenen Zeugen:

Der britische Kriegsgefangene COLEND sagte aus:

"Ich fand dort hoelzerne Betten, drei Stock hoch. Diese Betten, die nicht einmal fuer eine Person bequem gewesen waeren, waren fuer zwei oder drei Haeftlinge bestimmt. Es war deshalb praktisch unmoeglich zu schlafen. Wenn sich ein Mann niederlegte, mussten die anderen sitzen oder sich auf ihn deraufflegen. Ich sass die ganze Nacht und war todmuede." (PE 1462)

Der tschechische Haeftling TAUBER hat ausgesagt:

"In Monowitz schliefen auf einem Block in der Regel vierhundert Haeftlinge. Der Block war fuer 162 Haeftlinge eingerichtet. 1943 schliefen bis 3 Mann in einem Bett." (PE 1455)

Der Vorweger FEINBERG gab an:

"Wir wurden in den Sonderkonzentrationslager Monowitz untergebracht. Die Bedingungen waren unerträglich. Drei Holzgestelle übereinander enthielten - in Reihen nebeneinander aufgestellt - pro Raum etwa 300 Personen. Es war beinahe unmöglich zu atmen." (PE 1460)

Der frühere österreichische Häftling HELBIG erklärte im Kreuzverhör:

F: "Wieviele Häftlinge lebten durchschnittlich in einer solchen Baracke, soweit Sie dies aus eigener Beobachtung zu verschiedenen Zeitpunkten wissen?"

A: Durchschnittlich 300 bis 400." (Prot. 3631)

Der frühere holländische Häftling SPITZER sagte im Kreuzverhör aus:

F: "Herr Zeuge, wieviele Häftlinge lebten in einer solchen Baracke wie der, in der Sie selbst untergebracht waren?"

A: Als ich im Jahre 1943 in das Lager kam, wurde ich in den Block 22 gebracht und dort waren noch 310 andere. Ich war nicht sehr oft in anderen Baracken, weil ich am Abend noch meiner Arbeit zu schwach zum laufen war, aber ich habe andere Baracken gesehen und ich weiss, dass sie alle überfüllt waren." (Prot. 3897)

#### BEZEUGUNG

(88) In Bezug auf die unzulängliche Bekleidung bezeugt sich der britische Kriegsgefangene DAVISON zu den von den anderen Zeugen geschilderten Erfahrungen in folgender Weise:

"Die Lage der Juden, welche wir 'Gestreifte' nannten, weil sie gestreifte Schlafanzüge zu tragen pflegten, war eine sehr schlechte. Diese Schlafanzüge, die praktischweise ihre einzige Kleidung war, war aus einem Material hergestellt, das Sacktuch nährte. Sie hatten keine Socken und trugen Holzpantoffel statt Schuhe. Während des Winters trugen einige von ihnen gestreifte Mäntel, die aus demselben Material hergestellt waren. Diese Kleidung war niemals ausreichend um sie während der Wintermonate warm zu halten. Sie starben vor Erfrierung. Ich konnte jeden Tag die Toten sehen. Bei den Fellen, die ich selbst mit angesehen habe, waren täglich ungefähr fünf, die vor Kälte starben. Es muss unter den anderen in der Fabrik noch viel mehr gewesen sein. Soweit ich es beurteilen konnte, mochte ich sagen, dass ein verhältnismässig gesunder Häftling, der im Monat Oktober ankam, keine Hoffnung hatte, bis Ende des Winters zu leben." (PE 1464)

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(89) Zeuge fuer die Verteidigung Helmut SCHNEIDER, stellvertretender Leiter der Personalabteilung der I.G. Auschwitz, beschrieb die Kleidung der Lagerinsassen als

"Im Winter voellig unzureichend..... Dazu kam, dass sie haeufig abgemagert waren und eigenartig blaeuliche Gesichter hatten, was deprimierend wirkte. (P.E.2132)

(90) Zeuge fuer die Verteidigung BRAUS, Stellvertreter von BUETEFISCH

sagte:

"Sie waren zweifellos ungenuegend bekleidet und froren meiner Meinung nach. Dieser Anblick hat mich erschuettert. (P.E. 1994).

(91) Sogar der Sohn des Angeklagten JAEHNE sagte aus:

"Die Bekleidung der Haeftlinge war ausserordentlich mangelhaft. Ich kann mir nicht vorstellen, dass ich mit dieser Kleidung haette existieren koennen, wenn ich an kalten Wintertagen bis zum minus 30 Grad nur mit diesem duennen gestreiften Anzug und ebensolchem Mantel bekleidet gewesen waere." (PE 2059).

(92) Angesichts der obenwachten Eingestaendnisse von Verteidigungszeugen ist es nicht notwendig, irgendwelche von den Beschreibungen der zerstorenden Wirkung zu zitieren, welche die kalte Witterung auf die ungenuegend bekleideten Lagerinsassen hatte. Um jedoch ein Bild von der Zahl und Art der Erkrankungsfaelle zu geben, wird auf die Aussage des Herrn RAUSCH und von Professor WAITZ verwiesen. RAUSCH, Monowitzer Spital, sagt aus,

"Eine grosse Anzahl von Haeftlingen hatte Frostwunden, wobei verschiedene Gliedmassen abfroren und unbrauchbar waren. Im Winter 1943/44 kamen an sehr kalten Wintertagen bis zu 1200 Haeftlinge per Abend in die Ambulanz zur Behandlung. In einem bestimmten Tag, an dem die Haeftlinge ohne Brot ausmarschiert waren, sah ich ueber 20, die am Abend zusammenbrachen. Von diesen sind mindestens 5 oder 6 gestorben". (P.E.1492).

Professor WAITZ der Universitaet Strassburg, der Haeftlingsarzt in Monowitz war, sagte aus:



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"Die schlimmsten Erfrierungen kamen bei den in Eisen- und Kabelkommandos arbeitenden Haeftlingen vor. Die Arbeit in einem solchen Kommando kam in vielen Faellen einem Todesurteil gleich, da dort der Verschleiss an Menschen am groessten war. Mancho der Haeftlinge - es waren nicht mehr als etwa 10% - hatten Fausthandschuhe als Schutz an, die ihnen die IG zur Verfuegung gestellt hatte. .... Es kam auch vor, dass die Haut von Haeftlingen, die kalten Eisen anfassen mussten, an diesem haengen blieb" (PE 1494).

(93) Ungeachtet der offensichtlichen Unzulaenglichkeit der Haeftlingskleidung beschaffte der Angeklagte DUERRFELD erst im Winter 1944/45, bloss einige Monate vor der Raeeung von Auschwitz, Ueberroecke fuer die Haeftlinge. Demzufolge -

"hatten im Spaetwinter 1944 alle Haeftlinge Ueberroecke." (Tr.12040).

(Am 12. Januar 1945 wurde die I.G. Auschwitz geraeumt).

STRAFEN.

(94) Der Verteidigungszeuge Helmut SCHNEIDER gab an, dass Leute, welche sich gegen die Arbeitsdisziplin vergingen, ins Konzentrationslager geschickt werden konnten. (PE 2132)

(95) Verteidigungszeuge HURR verweist darauf, dass jedesmal, wenn ein Werkmeister mit der Arbeit eines Haeftlings unzufrieden war oder wenn der Haeftling nach der Meinung des Werkmeisters etwas falsch gemacht hatte, der Werkmeister sich mit der SS in Verbindung setzte. Die unzuverlaessigen Elemente und die Drueckeberger wurden mit der Hilfe des Farben-Werkschutzes und der Gestapo ausgemerzt. (PE 2208).

(96) Die Einstellung des Angeklagten DUERRFELD bezueglich der Abgabe von Arbeitern an das Konzentrationslager wurde von ihm im Zeugenstand dahingehend zum Ausdruck gebracht:

"Natuerlich sind mit keine Einzelfaelle bekannt, aber ich weiss sehr gut, dass es sich dabei, allgemein gesprochen, um notorische Drueckeberger handelte, die einfach nicht besserungsfahig waren. Diese wurden sodann bei der Polizei zur Anzeige gebracht, falls es keine andere Moeglichkeit gab, sie durch betriebsmaessige Verweise oder Ermahnungen und Warnungen zur Einkehr zu bringen und wenn man sie auf keine andere Weise erziehen konnte." (Tr.11686).

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(97) DUERRFELD gibt zu, dass ihm nach dem Kriege Guenther LOTZMANN, einer der Fuehrer des Farben-Werkschutzes, mitgeteilt habe, dass er persoenlich Arbeiter auf der Baustelle geschlagen habe. (Tr.11690).

(98) Die Einstellung der Farben-Direktion laesst sich aus der Aussage des Verteidigungszeugen Karl BAYER entnehmen:

"Ich beobachtete nur ein - oder zweimal, wie ein Werkmeister einen Haeftling schlug. Jedoch laesst sich ein solches Schlagen nicht als Misshandlung bezeichnen." (Tr.14476).

(99) Der Fuehrer des Farben-Werkschutzes, NLEPHANN, verweist in einem Auschwitzer Wochenbericht, einem aus der kritischen Zeit stammenden Dokument, darauf hin, dass "gegen Drueckeberger auf das schaeerfste vorgegangen werden muss." (PE 2208).

(100) Die Einstellung der Farben-Bauleitung gegenueber dem Schlagen von Haeftlingen kommt am besten in einem aus der betreffenden Zeit stammenden Dokument einem Auschwitzer Wochenbericht, zum Ausdruck, worin Folgendes gesagt wird:

"Wir haben ferner die Herren des KL darauf aufmerksam gemacht, dass in den lotzten Wochen in zunehmendem Masse die Haeftlinge seitens der Capos auf der Baustelle schwer gezuuechtigt werden, und zwar trifft dies immer bei den schwaeachsten Haeftlingen zu, die tatsaechlich nicht mehr leisten koennen. Die ausserordentlich unangenehmen Szenen, die sich hierbei auf der Baustelle abspielen, beginnen auf die freien Arbeitskraefte (Polen) sowohl als auch auf Reichsdeutsche demoralisierend zu wirken. Wir haben deshalb geboten, diese Zuechtigungen auf der Baustelle zu unterlassen, und sie in die Mauern des KL zu verlegen." (PE 1985).

(101) Aussenstehenden erscheint die Bestrafung von Haeftlingen allerdings in einem etwas anderen Licht. HARTLAND, ein englischer Kriegsgefangener, erklaert:

"Manch meiner schrecklichsten Erinnerungen an Auschwitz ruehren davon her, dass ich gesehen habe, wie Haeftlinge zu Tode gepruegelt oder geschlagen und dann in Schubkarron weggefahren wurden". (PE 1519).

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Davison, englischer Kriegsgefangener, erklärte:

"Die IG-Farben Zivilisten versuchten niemals die SS oder die Kapos beim Schlagen oder Toeten der Haeftlinge aufzuhalten oder sie daran zu verhindern. Tatsache ist, dass sie ihnen oft halfen." (PE 1464).

ADKINS, englischer Kriegsgefangener, gab an:

"Manchmal wurden Haeftlinge so schwer von den Zivilisten geschlagen, dass sie umfielen und von ihren Kameraden weggetragen werden mussten." (PE 1475).

DALAS, englischer Kriegsgefangener, erklärte:

Sobald sie den deutschen Meistern zugewiesen waren, wurden sie die Sklaven des betreffenden Meisters. Diese deutschen Meister hatten die Macht ueber Leben und Tod der ihnen zugewiesenen Sklaven und konnten ihnen die verschiedensten Aufgaben erteilen. .... Eine bedeutend wirksamere Art, die Haeftlinge jeglichen Befehlen gefuegig zu machen, war die Drohung, sie der SS-Mache zu melden, um sie in die Gaskammern zu schicken." (PE 1471).

(102) Darueber hinaus wird auf die unwiderlegbare, aus der kritischen Zeit stammende, in den kuerzlich aufgefundenen Auschwitz Wochenberichten enthaltene Notiz verwiesen:

"Die Arbeitsleistung, insbesondere der Polen und Haeftlinge, laesst nach wie vor sehr viel zu wuenschen uebrig. Eine grosse Kalamitaet bildet der Krankenstand. Zum Beispiel sind bei der Firma SCHULZ von einer Belegschaft von 853 freien Arbeitskraefte 182 krank (Meldung vom 20.12.41). Un gehoert ist auch der Mangel an Arbeitsdisziplin seitens der polnischen Arbeitskraefte. Zahlreiche Arbeiter arbeiten hoechstens 3 - 4 Tage in der Woche. Alle Druckmittel, selbst die Einweisung in das KL bleiben fruchtlos. Bedauerlich bleibt hierbei immer nur, dass die Beuleitung selbst ueber keine Disziplinargewalt verfuegt. Nach unseren bisherigen Erfahrungen fruchtet bei diesen Menschen nur Brachialgewalt. Diese aber ist hier, wie uebrigens auch im Gouvernement streng verpoent." (PE 1988).



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(103) "Herr SPRIMONT, Vertreter der Firma SOTRAB, wird mit aller Deutlichkeit darauf aufmerksam gemacht, dass wir die Bummeloi der Belgier, die ueberhaupt nur etwa zu 60 % zur Arbeit erscheinen, nicht laenger mitmachen und auch nicht davor zurueckschrecken, die arbeitsscheuen Belgier in das KL einliefern zu lassen. SPRIMONT wird durch ein Rundschreiben seine Arbeitskraefte auf die Folgen ihrer Bummeloi hinweisen. (PE 1991).

(104) Mit neuerlicher Bezugnahme auf die von der Firma SOTRAB stammenden franzoesischen und belgischen Arbeiter heisst es:

"Alle angewendeten Mittel scheinen fruchtlos zu sein. Auch die Sperrung der Verpflegung." (PE 1992).

(105) ".... dass gegen Arbeitsbummelanten nicht streng genug vorgegangen werden kann." (PE 2208).

(106) "Der Lagerverwaltung ist es gelungen, die Russinnen straff auszurichten und an eine strenge Disziplin zu gewoennen. Dieser Erfolg ..... die zunehmende und anhaltende Besserung der Leistung der Russinnen." (PE 2208).

ARBEITSBEDINGUNGEN.

(107) Hinsichtlich der Arbeitsbedingungen mag es nuetzlich sein, gleich zu Beginn einige der von den Verteidigungszeugen gemachten Angestaendnisse darzulegen. Der Verteidigungszeuge Helmut SCHNEIDER, stellvertretender Leiter der Personal- und Sozialabteilung, I.G. Auschwitz, gab an:

"Die Frage, ob ich weiss, dass KZ-Insassen am Abend halbtot oder sogar tot beim Tor der IG Farben-Baustelle hinausgetragen wurden, weil sie beim Lagerappell anwesend sein mussten, kann ich dahingehend beantworten: Ich habe von solchen Dingen nicht nur gehoert, sondern ich sage auch, dass unter den Lagerinsassen kranke Leute waren. Manche von ihnen machen einen leblosen Eindruck, jedoch muesste ich, um den Tod feststellen zu koennen, ein Arzt sein. Ich kann nicht mit Bestimmtheit angeben, dass MEBROS oder DUERRFELD einen toten Lagerinsassen sahen. Dies anzugeben, wuerde sehr schwer fallen. Ich moechte nur angeben, was ich tatsaechlich weiss. Ich nehme als gewiss an, dass sie darueber benachrichtigt wurden, weil dies ein Thema war, ueber das das ganze Werk redete. (Tr. 11428).

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Verteidigungszeuge SAVELSBURG, Leiter der kommerziellen Abteilung der I.G.Farben Auschwitz, der unmittelbar unter DUERRFELD stand, gab an:

"Wenn diese Lagerinsassen abends vom Bauplatz abmarschierten, sah ich, dass Lagerinsassen von ihren Kameraden gestuetzt und manche von ihnen auch auf Tragbahren getragen wurden. Die Frage, welche Sie mir eben vorlegten, ob sie tot waren, beantwortete ich dahin, dass es unmöglich war, zu sehen, ob sie noch lebten oder nicht. Sie lagen allerdings auf ihren Tragbahren, als ob sie tot waeren". (Tr.14412).

Der Verteidigungszeuge REINHOLD, stellvertretender Leiter der kommerziellen Abteilung, der die Lebensmittelversorgung, u.s.w. ueber hatte, gab zu, dass er oft bemerkte, wenn er die Lagerinsassen von der Arbeit am I.G.Farben-Bauplatz kommen sah, dass nicht weniger als drei oder vier Insassen aus einer Gruppe auf Bahren getragen wurden." (Tr.14444).

Der Verteidigungszeuge DOERING, Ober-Bauingenieur gab zu, dass er Lagerinsassen beobachtete, wie sie Zementsacke im Laufschrift trugen und dass er, wenn Lagerinsassen wieder ins Lager abmarschierten, bemerkte, wie einige sich an den Schultern ihrer Kameraden festhielten, da sie infolge Erschoepfung nicht gehen konnten." (P.E.2348).

Der Verteidigungszeuge DIETRICH, Lagerinsasse aus Monowitz, gab im Verlaufe seiner Aussage ueber die Arbeitsbedingungen bei der I.G.Farben, Auschwitz, zu, dass

"an den "Intertagen bis zu 20 Lagerinsassen aus von der Farben-Arbeitsstelle nach Monowitz getragen wurden, weil sie nicht mehr allein gehen konnten."

Weiters gab er an, dass sogar die "Buchhaltungsgruppe" Oberleitungsrohre legen und eiserne Traeger tragen mussten, von denen jeder einzelne so viel wog, wie der ihn tragende Haeftling. (Tr.13761).

Verteidigungszeuge TUB, Lagerinsasse aus Monowitz, gab zu, dass er "sah, wie Lagerinsassen auf dem Bauplatz geschlagen wurden." "Viele Insassen wurden dorart arg gepruegelt, dass wir sie am Abend nach Hause tragen mussten " ;

dass sie "während der Arbeitsstunden zusammenbrachen";

dass die Kapos, um von der Zivilbevölkerung mehr Alkohol und Lebensmittel zu erhalten, die Häftlinge so schlecht behandelten, dass wir mehrere von ihnen halbtot nach Hause tragen mussten; (Prot. 13484)

dass in Kommando IV, dem Todeskommando (Entladekommando fuer Beton und Eisen), taeglich Tote und Halbtote eingebracht wurden. (Prot. 13487)

Der Angeklagte DUERRFELD erklart die verschiedenen Aufgaben der Häftlinge damit, dass sich unter ihnen nur ein kleiner Prozentsatz Facharbeiter befand, sodass der groessere Teil naturgemaess die schmutzige Arbeit verrichten musste. (Prot. 11771)

Ludwig HESS, ein deutscher Häftling, hat ausgesagt:

"Die Baracken in Monowitz waren so ueberbelegt, dass fortwaehrend 2 Häftlinge in einem Bett schlafen mussten. Tische und Stuehle waren vollkommen unbekannte Gegenstaende. Das Essen musste auf den Betten sitzend eingenommen werden. Es liess sich nicht vermeiden, dass Stroh ins Essen fiel, und dass andererseits das Stroh in den Betten dadurch verunreinigt wurde." (Ankl.Exh. 1469)

(108) Der direkte Zusammenhang zwischen dem Draengen der IG Farben nach Produktionsleistung und den Misshandlungen, denen die bei der IG-Farben in Auschwitz beschaeftigten ungluecklichen Häftlinge ausgesetzt waren, wird deutlich klar aus der Aussage des Norbert JAEHNIG, Sohn des Angeklagten JAEHNIG, der ab 5. Januar 1943 als Diplomingenieur bei der IG Auschwitz taetig war:

"Von allen bei IG Auschwitz beschaeftigten Menschen sind die Häftlinge am schlechtesten behandelt worden. Sie wurden von den Kapos geschlagen, die ihrerseits darauf bedacht sein mussten, das ihnen bzw. ihrem Kommando von den IG-Meistern vorgeschriebene Arbeitspensum zu erfuellen, da sie sonst abends im Lager Monowitz durch Hiebe bestraft worden sind.



Auf der IG-Baustelle herrschte ein allgemeines Antreiber-system, so dass man von einer einseitigen Schuld der Kapos nicht sprechen kann. Die Kapos trieben die Häftlinge ihres Kommandos gewissermassen aus Selbstschutz ausserordentlich an und scheuten kein Mittel, die Arbeitsleistung der Häftlinge heraufzusetzen, nur um die geforderte Arbeitsleistung zu erfüllen." (Ankl.Exh. 2055)

(109) Dank des von der Verteidigung geleisteten Beitrags zur Beschreibung der Arbeitsbedingungen bei der IG-Auschwitz ist es unnötig, diesen Schriftsatz mit Zitaten aus den Aussagen der Belastungszeugen zu verlängern.

TEIL IV (Fortsetzung)

- (d) Die fuer die Arbeiten an dem Farben Bauprojekt oder in der Farben-Fabrik nicht laenger verwendungsfahigen Haef-linge wurden in die Gaskammern gejagt; und die unmenschliche Antreiberei der Angeklagten im Interesse einer Beschleunigung der Bauarbeiten und Erhoehung der Produktion um jeden Preis fuehrte zu der Ausrottung von Zehntausenden von Haeflingen, weil sie als zur Arbeit ungeeignet angesehen wurden.

(110) Die unmenschliche Antreiberei seitens der IG im Sinne einer Beschleunigung der Bauarbeiten und Produktion um jeden Preis bedeutete, dass Tausende der Haeflinge koerperlich derartig herunterkamen, dass sie nicht mehr laenger als arbeitsfaehig angesehen wurden; dies bedeutete ihre Ausrottung in den Gaskammern. Der niemals nachlassende Druck, der von der IG-Farben zu einer sich immer mehr steigern- den Erhoehung des Arbeitstempes beim Bau der IG-Auschwitz ausgebaut wurde, wird in den Affidavits und muendlichen Aussagen vieler glaubhafter Zeugen bestaetigt; eine Anzahl dieser Zeugen sind vor diesem Gericht erschienen.

Der britische Kriegsgefangene DALES sagte aus:

"Ich weiss heute noch nicht, wie sie imstande waren, das Arbeitstempo durchzuhalten und bei ihrem jaemmerlichen Zustand die schweren Lasten zu tragen. Sie arbeiteten ueber ihre Kraft aus Furcht, ausgerottet zu werden, wenn sie schwach oder arbeitsunfaehig erscheinen wuerden. Viele von ihnen hatten, gegen ihren Willen, nicht die Kraft, durchzuhalten und brachen zusammen." (Ankl.Exh. 1471)

Beim Kreuzverhoer wurde der britische Kriegsgefangene DALES gefragt: "Wie ist das zu verstehen, dass sie mit dem Tode bedroht wurden?"

A.: "Es wurde ihnen gesagt, dass, wenn sie nicht zu seiner Zufriedenheit arbeiteten, wuerde er sie der SS melden und die wuerde dann schon dafuer sorgen, dass sie vergast wuerden." (Prot. 36%)

Der britische Kriegsgefangene FERRIS erklaerte:

"Der Hauptgrund fuer das haeufige Schlagen der Haeflinge war, weil sie nicht schwer genug arbeiteten. Tatsaechlich hatten sie nicht genug Essen oder Kraft um schwerer zu arbeiten. Alle versuchten es. Sie waren zu eingeschuechtert um nicht zu versuchen, aber es war ihnen unmoeglich das Tempo durchzuhalten, welches ihnen von den Deutschen vorgeschrieben war. Und wenn sie strauchelten oder langsamer wurden oder umfielen, wurden sie geschlagen." (Ankl.Exh. 1463)



Final Brief of the  
Prosecution - Part IV

Während des Kreuzverhoers antwortete der britische Kriegsgefangene FERRIS auf die Frage: "Was sagten die Deutschen zu der Vergasung der Haeftlinge?" folgendermassen:

"Die Beamten der IG - sie sagten, dass, wenn sie (die Haeftlinge) arbeitsunfaehig wurden, haetten sie ihre Nuetzlichkeit ueberlebt, sodass das daher ein Ausweg fuer sie war." (Prot. 3841)



Der britische Kriegsgefangene HARTLAND beantwortete im Kreuzverhoer die Fragen der Verteidigung wie folgt:

- F.: "Ich moechte gerne von Ihnen wissen, Herr Zeuge, ob die Haeftlinge Ihnen etwas darueber sagten, dass sie sich fuerchteten ihre Wunden von den Haeftlinge-Aerzten behandeln zu lassen?"
- A.: "Sie fuerchteten sich vor jedweder Behandlung ihrer Wunden im Lager, weil sie wussten, dass, falls sie so schwerkrank und fuer eine Reihe von Tagen arbeitsunfaehig befunden wurden, sie den Deutschen nicht loenger von Nutzen waeren und getoetet werden wuerden. Das war allgemein bekannt." (Prot. 3938)

Der britische Kriegsgefangene CHARTERS erklaerte:

"Sie setzten ihre Benuehungen immer weiter fort, da man ziemlich allgemein der Ansicht war, dass diejenigen, die zum Arbeiten zu krank waren, in die Gaskammern geschickt wuerden." (Ankl.Exh. 1524)

Der britische Kriegsgefangene GREENHAM:

"Auf Grund ihres ausgehungerten und geschwaechten Zustandes hatten die Haeftlinge nicht genugend Kraft ihre Arbeit in der Fabrik zu verrichten. Ich sah, wie sie sich abmuhten, Kabel zu schleppen und unter der Last zusammenbrechen. Die Arbeit waere selbst fuer einen guternuehrten Mann zu schwer gewesen; fuer die Haeftlinge war sie unmoeglich.... Die Tatsache, dass die Haeftlinge weit ueber ihre Kraft in Anspruch genommen wurden, haette offensichtlich jedem im Werk klar sein muessen, ob es nun die Vorarbeiter, Meister, Ingenieure oder "erklaiter oder einer der besuchenden Groessen war." (Ankl.Exh. 1453)

Der britische Kriegsgefangene DOYLE:

"Die Verfassung der Konzentrationslager-Haeftlinge war beklagenswert. Ich sah sie, wie sie nachts zurueckgetragen wurden, tot, infolge Erfrierens, Hunger oder Erschoepfung. Die Konzentrationslager-Haeftlinge verrichteten schwere koerperliche Arbeit, wie Tragen von Stahltraegern, Rohren, Kabeln, Backsteinen und Zementsacken im Gewicht von etwa 100 Pfund. In der Regel wogen die Insassen weniger als die Zementsacke. Ich sah, wie die Haeftlinge sich abarbeiteten, es im Laufschrift zu schaffen versuchten, aber dazu auserstande waren, und ich sah, wie sie zusammenbrechen." (Ankl.Exh. 1518)

Der britische Kriegsgefangene FROST:

"Ausser den IG-Farben-Vorarbeitern und anderen Beamten in Auschwitz kamen manchmal hohe Tiere des Hauptbueros in die Fabrik. Es ist meine Ueberzeugung, dass niemand der in der Fabrik arbeitete oder der die Fabrik geschaeftlich oder zu Inspektionszwecken besuchte,

sich dem Eindruck verschliessen konnte, dass die Lagerinsassen tatsaechlich zu Tode gearbeitet wurden. Sie hatten ueberhaupt keine Gesichtsfarbe. Sie waren richtige lebende Leichname, bestehend aus Haut und Knochen und vollstaendig seelisch gebrochen. Jeder dort wusste, dass man die Gefangenen dort solange behalten wuerde, als sie Arbeit verrichten konnten und dass sie, sobald sie koerperlich dazu nicht mehr in der Lage waren, ausgemerzt werden wuerden." (Ankl.Exh. 1480)

Der britische Kriegsgefangene ALEXANDER:

"Die Polen, die in den Werkstaetten in Auschwitz und der Station arbeiteten, und die deutschen Wachmannschaften, die uns bewachten, auch die deutschen Zivilisten, wie der IG-Farben-Mann, der die Oberleitung fuer unser Lager innehatte, alle unterhielten sich mit mir ueber die Verhaeltnisse der Konzentrationslager-Haeftlinge. Niemand stellte es jemals in Abrede, dass die Haeftlinge, die fuer IG-Farben arbeiteten, und die nicht mehr kraeftig genug waren, die Arbeit fortzusetzen, in die Gaskammern geschickt wurden. .... Waehrend der zwei Jahre meines dortigen Aufenthaltes ereignete sich nichts, was darauf schliessen lassen koennte, dass ueber die Haeftlinge in anderer Weise verfuegt wurde. Von den vielen Tausend, die durchkamen, kam nie jemand zurueck." (Ankl.Exh. 1525)

Und der britische Kriegsgefangene LONGDON:

"Sie waren alle davon ueberzeugt, dass in Auschwitz alle Arbeitsunfaehigen vergast wuerden, und die Deutschen machten davon als Ansporn Gebrauch, indem sie den auslaendischen Arbeitern mit der Verschickung nach Auschwitz drohten." (Ankl.Exh. 1522)

(111) Die Einstellung der IG-Farben zu der Formel "Wer nicht arbeiten kann, hat auch kein Recht zu leben" wird am besten illustriert durch ihren vollstaendigen Mangel an Geduld mit jedweden Krankheitsfall, der die Arbeitsleistung verminderte. (Ankl.Exh. 1447, 1448).

(112) Im Falle der britischen Kriegsgefangenen haben die beiden fuer den Gesundheitszustand der Kriegsgefangenen verantwortlichen britischen Aerzte die IG beschuldigt, eine Anweisung erlassen zu haben, die "in klaren und unmissverstaendlichen Worten anordnete, dass im Interesse der notwendigen Produktionsleistung" die Krankenliste, d.h. die Liste der von der Arbeit befreiten Leute, auf "hoechstens 3%" zu halten waere. Indem er die verantwortlichen IG-Farben-Funktionaere namentlich bezeichnete, sagte Dr. SPENCER aus, dass Leute, die er arbeitsunfaehig schrieb, einer oberflaechlichen 30 Sekunden dauernden "Nachuntersuchung" unterzogen, arbeitsfaehig erklaert und "mit aufgeflossener Seitengewehr...in die IG-Farben-Fabrik in Marsch gesetzt wurden". (Ankl.Exh. 1486)

Dr. SPENCER's Aussage wird durch die seines Kollegen, Dr. ROBERTSON (PE 1487) im vollen Umfange bestaetigt und durch jene Kriegsgefangenen, die von den Farben-Aerzten als arbeitsfaehig ausgewaehlt wurden, obwohl sie mit Fieber bettlaegerig waren und von den zustaeendigen britischen Aerzten erklart wurde dass, sie nicht arbeitsfaehig seien (PE 1464, PE 1453).

(113) Dieses System, hart und grausam wenn an Fremdarbeiter und britische Gefangene angewandt, wurde zum glatten Mord an den Insassen des KZ Monowitz. Professor EPPSTEIN, ueber den DUERRFELD aussagte, dass "er" versucht habe, ihm frei zu bekommen ", als er hoerte dass dieser ein "sehr beruehmter und faehiger Mann" sei (PE 11797) sagte folgendermassen aus:

"Es gab im allgemeinen Richtlinien in Monowitz, die vorschrieben, dass nur solche Haeftlinge in den Krankenbau aufgenommen wurden, deren Genesung nicht laenger als 14 Tage dauerte. Die Begrueendung hierfuer war, dass die IG Farben Auschwitz nur 14 Tage fuer jeden Haeftling Krankengeld zahlte. . . . Der Krankenbau in Monowitz wurde von Zivilpersonen besucht. Schon der blosser Anblick der Haeftlinge musste jedem die Augen ueber den Zustand der Haeftlinge oeffnen. Die durchschnittliche Arbeitsfaehigkeit eines Haeftling-Arbeiters der IG Auschwitz war 3-4 Monate. . . . Ich erinnere mich an Haeftlinge, die hatten, nach Auschwitz abgeschoben zu werden, weil ihnen der Tod lieber war als das Leben im Lager." (PE 1485)

(114) Der Zeuge RAUSCH sagte aus, dass der SS-Arzt VETTER und die anderen Lageraerzte des oeffteren erklarten:

"Der Krankenstand ist zu hoch. Die IG duldet das nicht, es muss mehr entlassen werden." . . . Dadurch entwickelte sich praktisch, dass die Haeftlinge meistens nach 2-3 Wochen entweder vorzeitig entlassen oder nach Birkenau zur Vergasung geschickt wurden. Aussordem wurde eine Tabelle oder eine Kurve angelegt, die den Krankenstand zeigte. Wenn die Zahl der Kranken der Lagerbelagschaft 10% ueberschritten hatte, hatte dies ebenso in den meisten Faellen Selektionen oder vorzeitige Massenentlassungen zur Folge. . . . Der Umsatz an Haeftlingen in Monowitz war durch die schweren Arbeitsbedingungen im IG Farben-Werk sehr gross.



Dabei fallen am wenigsten die unmittelbaren Todesfälle in Lager ins Gewicht.

"Die grösste Zahl von erschöpften Häftlingen wurde im Hock oder am Tor direkt fuer die Vergasung nach Birkenau selektiert." (PE 1492)

(115) Der berühmte Professor WAITZ \*) von der Universität Strassburg bestätigte im vollen Umfang die prozentuale Anzahl an Häftlingen, denen von der IG erlaubt war, im Krankbett zu liegen. Das Ergebnis der IG Politik wird von ihm weiter folgendermassen erklärt:

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\*) Ritter der Ehrenlegion und Träger des französischen Monstkreuzes (Distinguished Service Cross) 1933-1945 und der Widerstandsmedaille.

"Zwischen dem Wunsch der IG, arbeitseinsatzfähige Häftlinge zu haben und den Selektionen in Monowitz bestand ein direkter Zusammenhang insofern, als die IG auf neue Arbeitskräfte drängte, sowie die Arbeitsleistung der Häftlinge im Absinken begriffen war. Es wurde daraufhin eine Selektion im Lager vorgenommen, d.h. die schwachen Häftlinge kamen in die Gaskammern nach Birkenau, an ihrer Stelle kam neuer Nachschub aus dem Stammlager. Bei Selektionen gab es jedoch folgende Ausnahmen: Wenn Facharbeiter-Kommandos bei den selektierten Häftlingen dabei waren, gelang es in verschiedenen Fällen, sie vor dem Schicksal der Vergasung zu retten. Der Kapo setzte sich mit dem IG-Meister in Verbindung und veranlasste diesen, die SS anzurufen, damit die Leute von der politischen Abteilung gestrichen werden. Die Meister wussten also nur zu gut, warum es in manchen Fällen nur eines Wortes von ihnen bedurfte, um einen Häftling vor dem sicheren Tod der Vergasung zu retten."  
(PE 1494)

(116) Wenn man sich an die Aussagen von HESS, RAUSCH, EPSTEIN, WAITZ und anderen, die im Revier in Monowitz arbeiteten, bezüglich der ganz ungeheuerlich ueberfuellten Verhaeltnisse des Reviers erinnert, dann erhaelt die Aussage des Zeugen DOEMMING besondere Bedeutung. DOEMMING, der Oberbauingenieur der IG Farben Auschwitz war, sagt aus:

"Ende 1942 hat die IG Auschwitz (Walter DUERRFELD) der SS gegenueber abgelehnt, in Monowitz zusätzliche Krankenbaracken zu erstellen. Es waren 2 bis 3 Holzbaracken von der IG fuer diesen Zweck vorgesehen. Die SS hatte jedoch verlangt, dass die IG fuer den Krankenbau massive Steinbaracken auffuehren solle. Die IG lehnte daraufhin den Bau von Krankenbaracken aus technischen Gruenden ab und schlug der SS stattdessen vor, die kranken Häftlinge in das Konzentrationslager Auschwitz zurueckzuschaffen, falls die Krankenzahl in Monowitz so hoch sein sollte, dass die vorhandenen Krankenbaracken nicht mehr ausreichen." (PE 2348)

Im Kreuzverhoer hat Prof. WAITZ dem Gericht die Darstellung derselben Episode vom G-sichtspunkt der Häftlinge vorgelegt. Hinsichtlich der kranken Häftlinge im Monowitz-Revier sagte er folgendes aus:

Antwort: Sie lagen in Betten die uebereinander gestellt waren und zwar manchmal zu zweit und zu dritt in einem Bett.

Frage: Waren dies aussergewöhnliche Umstände, wenn das Revier ueberfuellt war und hatte im Prinzip jeder Patient sein eigenes Bett?

Antwort: Nein, wir hatten nicht genug Betten und man kann sagen, dass es in der Durchgangestation und im Spital an der Tagesordnung war, mindestens zwei Kranke in einem Bett zu sehen und es ist nicht notwendig hinzuzufuegen, dass diese Verhaeltnisse des Zusammenschlafens die ungeheuerlichsten Folgen hatten, denn die Ruhr einerseits und Entzuendungsgeschwure andererseits waren natuerlich ansteckend. Weiters war es diesen Leuten unmoeglich, sich auszuruhen, wenn zwei oder drei in einem Bett lagen.



Frage: Herr Dr. WAITZ, war dies ein normaler Zustand oder waren dies abnormale Ueberfuellungsverhaeltnisse?

Antwort: Dies war ein normaler Zustand und aus diesem Grunde baten wir das oeffteren den Lagerarzt, sich von der IG die Ermächtigung zu verschaffen, neue Blocks fuer Spitalzwecke zu uebernehmen wo wir unsere Kranken unterbringen konnten; der Lagerarzt kam zurueck und ich hoerte ihn bei drei verschiedenen Gelegenheiten sagen: "Bei der Unterredung an der ich gerade teilnahm, konnte ich keine Zuweisung neuer Spital-Blocks fuer unser Revier erhalten." (Transcr. 3792)

(117) Die besondere Aufmerksamkeit des Hohen Gerichts wird auf die Affidavits und Kreuzverhoere der Zeugen RAUSCH, SCHULHOF und Prof. WAITZ gelenkt, die an Ort und Stelle die ungeheuer entsetzliche Auswirkung der von der IG Farben bei ihrer Erzeugungsschlacht betriebenen Hetzarbeit kennenlernten. Prof. WAITZ als Haeftlingsarzt, RAUSCH, der alle Buchoer und Aufzeichnungen im Spital Monowitz fuehrte, und SCHULHOF, der den Arbeitseinsatz der Haeftlinge leitete, kennen den furchtbaren Verbrauch von erschoepten Haeftlingen, die bei IG Farben eingesetzt waren und die Selektionen dieser Haeftlinge fuer die Gaskammern.

(118) Hunger im Verein mit Erschoepfung, und Strafen forderten schwere Opfer unter den Sklaven der IG Farben. Der Zeuge HERZOG sagte aus, dass von den 60 000 Haeftlingen die durch die IG Auschwitz passierten,

"10 000 in Ausschlager geschickt wurden und 10 000 zurueckblieben, als das Lager aufgeloeset wurde. Ich kann keine genaue Zahl angeben, aber diese Zahl duerfte nach oben oder unten nicht mehr als um tausend abweichen. 10 000 wurden entlassen, da sie "E" Haeftlinge waren - Haeftlinge die einen Arbeitsberuf erlernten. 30 000 starben." (Transcr. 3637)

(119) Die geradesu phaedomenale Genauigkeit der Zeugen RAUSCH, SCHULHOF und HERZOG bezueglich der Sterblichkeit der Farben-Opfer wurde bestaetigt durch gleichzeitige Aufzeichnungen, die erst in

letzter Zeit entdeckt wurden, eine tatsächliche Aufstellung der Todesfälle in IG Auschwitz.

(120) Diese Aufzeichnungen zeigen, dass zwischen 16. November 1942 bis 15. Januar 1945 (dem Tage der Evakuierung) 1647 der Häftlinge, die fuer die IG Auschwitz arbeiteten, die Farben-Anlagen nicht lebend verlassen haben. Die Aufzeichnungen zeigen ferner, dass waehrend einer etwas kuerseren Zeitspanne, naemlich vom November 1942 bis September 1944, 7 295 der Häftlinge, die in IG Farben eingesetzt waren, vom Spital in Monowitz nach Auschwitz-Birkenau geschickt wurden.

(121) In diesem Zusammenhang duerfte daran erinnert werden, dass ein Zeuge der Anklagebehoerde nach dem anderen ausgesagt hat, dass diese Transporte zu den Gaskammern geleitet wurden. Es darf auch in Erinnerung gerufen werden, dass seit dieser Zeit

Zeugen der Verteidigung bestaetigt haben, dass das Endziel dieser Transporte die Gaskammern waren. Waehrend des Kreuzverhoers des SS-Arztes Dr. MUENCH vor dem Hohen Gericht kam es zu den folgenden Fragen und Antworten:

- Frage: "... Herr Zeuge, jene Leute die im Spital in Monowitz waren und wegen Oedomen und Geschwueren nach Auschwitz-Birkenau verschickt wurden, zu welchem Zwecke wurden sie nach Birkenau geschickt ?
- Antwort: Soweit diese Leute Juden waren, muss ich angeben, dass die meisten vergast wurden.
- Frage: Herr Zeuge, wenn diese Leute die vom Spital in Monowitz nach Auschwitz-Birkenau transportiert wurden, Juden waren und verschickt wurden, weil sie schwach waren oder zusammengebrochen, warum wurden sie nach Birkenau gebracht?
- Antwort: Gleichfalls, um vergast zu werden.  
(Transcr.14339)

Ein weiterer Zeuge der Verteidigung, ein Haeftling aus Monowitz, sagte im Kreuzverhoer folgendes aus:

- Frage: "Herr Zeuge, um einen Augenblick auf die Aussage ueber das Wissen von den Vergasungen zurueckzukommen, ist es nicht eine Tatsache, dass zwei- oder dreimal woechentlich offene Lastwagen an der IG Farben-Fabrik vorbei mit arbeitsunfaehigen Haeftlingen von Monowitz nach Birkenau fahren ?
- Antwort: Das ist wahr.
- Frage: Nun, war es nicht allgemein bekannt unter den Haeftlingen, dass diese arbeitsunfaehigen Haeftlinge nach Birkenau zur Vergasung geschickt wurden ?
- Antwort: Ja.
- Frage: Ist es nicht eine Tatsache, dass die Kleidung der toten Haeftlinge kurz darauf nach Monowitz zurueckgeschickt wurde ?
- Antwort: Das ist richtig." (Transcr.13763)

Das Rueckverhoer durch Dr. SEHL erbrachte folgende weitere Aussage:



Frage: "Haben Sie solche Transporte zwei- oder dreimal in der Woche beobachtet?"

Antwort: Gewiss.

Frage: Wieviele Häftlinge befanden sich in solchen Lastwagen?

Antwort: Ungefähr 80 bis 100 Mann.

Frage: Wieso wissen Sie, dass diese Häftlinge nicht z.B. in andere Konzentrationslager oder in andere von den 40 zu Auschwitz gehörigen Arbeitslagern eingewiesen wurden?

Antwort: Man wurde kaum todkranken Häftlinge in ein anderes Arbeitslager versetzt haben.

Frage: Zunge, ist es Ihnen nicht bekannt, dass es sowohl im Konzentrationslager Auschwitz als auch im Konzentrationslager von Birkenau grosse Spitäler gab und ist Ihnen nicht bekannt, dass Häftlinge die nach Auschwitz oder Birkenau geschickt wurden, nach ihrer Genesung nach Monowitz zurückgebracht wurden?

Antwort: Ich glaube, dass dies nur bei einem sehr kleinen Prozentsatz der Fall war.  
(Transcr. 13769)

(122) Man wird sich erinnern, dass die Zeugen der Anklagebehörde, hatten die die verschiedenen Aufzeichnungen/wie z.B. der Registrarchef HERZOG ueber Arbeitseinsatz, SCHLUDF und RAUSCH ueber Krankenwesen, ~~und~~ die Zahl der Todesfälle, die unmittelbar der IG zuschreiben waren, zwischen 30 000 und 35 000 ansetzten. (Prot. 3637, Prot. 3757, Engl. Seite 1452). In seiner Aussage im Kreuzverhoer gab der Angeklagte RAUSCH an, dass die Anzahl der Häftlinge, die von der IG Auschwitz in die Gaskammern von Auschwitz-Birkenau gesandt wurden, drei- oder viermal so gross war als jene, die vom Monowitz-Spital allein geschickt wurden. (Transcr. 3759)

(123) Wenn man die in letzter Zeit entdeckten Aufzeichnungen, die die Zahl von ueber 7 000 Personen aufweisen, die vom Monowitz-Spital nach Auschwitz-Birkenau gesandt wurden, (PE 2262) zu dem Dreifachen

dieser Zahl fuer die gesamte IG Auschwitz hinzueft, ergeben sich ungfuehr 29 000. Wenn man noch die 1 600, die in den IG-Anlagen starben hinzueft, erhaelt man 30 600 und damit fast ganz genau jene Zahl, die von den verschiedenen Zeugen der Anklagebehoerde in diesem Verfahren schaeztungsweise angegeben wurde noch bevor die Todeslisten gefunden wurden.

(124) Die folgende Aussage wurde von dem Zeugen HERZOG im Kreuzverhoer gemacht:

Frage: "Sie sagen "das System der Farben, welches nur den Vollarbeitsfaehigen erlaubte, in Buna zu arbeiten, war fuer mehr Todesfaelle verantwortlich als die einzelnen Morde in anderen Konzentrationslagern"!

Antwort: Ja.

Frage: Aber auf Grund der Information die wir haben und im Vergleich mit der Zahl die Sie angeblich, kann ich Ihnen sagen, dass dies auf keinen Fall stimmen kann.

Antwort: In diesem Falle kann ich Ihnen den folgenden Vergleich geben. Ich war vorher und nachher in Buchenwald. Buchenwald ist ein Lager, das 8 Jahre lang bestand, von 1937 bis 1945. Die Angabe von acht Jahren stimmt fast auf den Tag, und die Schrecknisse der ersten Jahre waren ungeheuer - es gab viele Morde. Die Zahl betrug 52 000 in acht Jahren. Aber bei der Buna betrug die Zahl der Todesfaelle nach meiner ziemlich genauen Schaeztung waehrend zwei und ein viertel Jahre 30 000." (Transcr. 3638)

Im direkten Rueckverhoer gab der Zeuge folgendes an:

Frage: Herr HERZOG, koennten Sie eine Aufstellung der Zahl von 60 000 Menschen geben, die durch das Lager gingen, mit der Angabe, wieviele in andere Lager gingen und was mit anderen geschehen ist - eine Aufstellung der Zahl von 60 000 ?

Antwort: 10 000 wurden in Aussenlager und andere Lager gesandt, 10 000 verblieben, als das Lager aufgeloeset wurde. Ich kann keine genauen Zahlen angeben, aber diese Ziffer duerfte nach oben oder nach unten um nicht mehr als tausend abweichen.

10 000 wurden entlassen, da sie "E" Häftlinge waren —  
Umschaltungsgefangene. 30 000 starben. (Tr. 3637)

Im Ruck-Kreuzverhör sagte der Zeuge folgendes aus:

Frago: "Zeuge, bleiben Sie bei Ihrer Zahl von 60 000, selbst wenn  
von den Affidavits anderer Anklage-Zeugen ersichtlich ist,  
dass insgesamt nur 30 000 Häftlinge durch Monowitz ein-  
gen ?

Antwort: "In diesem Falle kann ich den andern Häftlingen nur sagen,  
dass nicht sie die Leitung des Lagers innehatten, sondern  
ich." (Tr. 3637)

- o) Gemäss den Bestimmungen des Paragraphen II des Kontroll-  
ratsgesetzes Nr. 10 sind die Angeklagten strafrechtlich vor-  
antwortlich fuer diese Handlungen.

(125) Die vorhin geschilderten Handlungen stellen Verbrechen gegen die  
Menschlichkeit, ohne Rücksicht auf die Nationalität der Häftlinge (Ab-  
satz I (c) des Artikels II des Kontrollratsgesetzes Nr. 10) und Kriegs-  
verbrechen dar, ausgenommen wenn solche Verbrechen an deutschen Staats-  
bürgern begangen wurden (Absatz I (b) des Artikels II). Die Angeklag-  
ten verübten diese Verbrechen, indem sie Täter oder Beihelfer waren,  
die Begehung solcher Verbrechen befohlen oder daran mitgewirkt haben,  
durch ihre Zustimmung daran teilgenommen haben, mit ihrer Planung und  
Ausführung im Zusammenhang gestanden und Angehörige von Organisationen  
von Gruppen, einschliesslich I.G. Farben, waren, die mit der Ausführung  
dieser Verbrechen im Zusammenhang standen.

(126) Die Verantwortlichkeit des Vorstandes fuer die Vorgänge in IG  
Auschwitz steht fest. Einige der Hauptpunkte der Teilnahme von Vorstands-  
mitgliedern, sind folgende:



- A. AMEROS, TER MEER und KRAUCH billigten die Baustelle Auschwitz in Kenntnis von der Existenz des Konzentrationslagers und wegen den Einsatz von Konzentrationslager-Häftlingen in Erwägung (PE 1419, PE 1414).
- B. Im direkten Vorhoer sagte AMEROS aus, dass er als neues Vorstandsmitglied nicht ueber Hunderte Millionen Reichsmark allein verfuogen konnte und dass er "den Vorstand - . . . Herrn SCHMITZ und Herrn KRAUCH, die noch zu dieser Zeit im Vorstand sasson" informieren musste. (Tr.7830)
- C. Sowohl die TEA als auch der Vorstand waren beide im vollen Besitz der Einzelheiten des Vorschlages, stimmten diesem Abkommen bei und haben niemals gegen den Einsatz von Konzentrationslager-Häftlingen protestiert. (PE 1418).
- D. Auf KRAUCH's Ansuchen gaben GOERING und HIMMLER die Befehle heraus, die die SS anwiesen, Häftlinge der Konzentrationslager der IG Farben fuer den Bau der vierten Buna-Anlage zur Verfuogung zu stellen und die Evakuierung der Juden und Polen aus Auschwitz zu vorenlassen, um

Platz fuer die IG Farben-Blegschaft zu schaffen. TER MEER, AMEROS und DUERRFELD waren davon unterrichtet. (PE 1417, PE 2199, PE 2201).

- E. Nachdem BUEDEFISCH und AMEROS im einzelnen ueber Auschwitz und Puorstengrube Bericht erstattet haben, bestimmte die TEA 18 500 000 RM fuer Auschwitz. (PE 1425).
- F. Am Tage nach der ersten TEA-Zuwendung traf BUEDEFISCH mit Obergruppenfuehrer SS WOLFF Vereinbarungen hinsichtlich KZ-Haeftlinge fuer Auschwitz (PE 2200).
- G. Der schwerstwiegende Einzelumstand bei der Vernichtung von Tausenden von Haeftlingen der IG Auschwitz, war der unnechlaessige Druck, den Bau und die Produktion moeglichst vorwaertszutreiben. In diesem Zusammenhang muss bemerkt werden, dass KRAUCHs Buero die Termine bestimmte, und dass die Termine in laufenden Verhandlungen mit KRAUCH besprochen wurden. (Tr.11649).
- H. AMEROS stimmte der von DUERRFELD gefuehrten Kampagne zur Erzeugungsteigerung zu (PE 1994) und berichtete unmittelbar an KRAUCH ueber den Fortschritt (PE 1443). KRAUCH war es, der der IG Auschwitz half, indem er die Auseinandersetzungen mit den SS-Stellen um den Einsatz der KZ-Haeftlinge fuehrte (PE 2207).
- I. Sogar zugegeben, dass IG Farben mit der SS eine grosse Anzahl von Haeftlingen aus dem KZ Auschwitz aushandelte, so war doch der Umstand, dass KRAUCH als G.B. Chem. imstande war, die Baumaterialien fuer die Erweiterung des KZ Auschwitz zu beschaffen, der ausschlaggebende Punkt bei den Verhandlungen.
- J. Im Laufe des Aufbaues der IG Auschwitz wurde die TEA immer wieder in Anspruch genommen, um die noetigen Golder anzuweisen.

22 135 700,— RM wurden am 24. April 1941 fuer IG Auschwitz bestimmt (PE 1432).

Am 9. Juli 1941 wurden 548 000 000,— RM fuer die Auschwitzer Leuna-Anlagen und 34 610 000,— RM fuer die Buna-Anlage in Auschwitz zugewiesen (PE 1434).

Am 6. November 1941 bestimmte die TEA 46 952 000,— RM fuer die Leuna-Anlage und 5 910 000,— RM fuer die Buna-Anlage von Auschwitz (PE 1346).

Am 8. Januar 1942 bestimmte TEA 49 085 000,— RM fuer die Leuna-Anlage und 23 693 000,— RM fuer die Buna-Anlage in Auschwitz (PE 1438).

Am 17. Februar 1942 bestimmte TEA 307 000,— RM fuer die Leuna-Anlage und 34 396 000,— RM fuer die Buna-Anlage von Auschwitz (PE 1439).

Bevor ich weitere Sitzungen der TEA anfuere, moechte ich die Aufmerksamkeit des Hohen Gerichts auf die Tatsache lenken, dass Dr. STRUSS, der staendige Sekretar der TEA, der den Mitgliedern die Arbeitseinsatzplaene und andere Einzelheiten hinsichtlich Auschwitz' darlegte, seit Februar 1942 von den Massenverbrennungen von Haeftlingen im KZ Auschwitz Kenntnis hatte. Gelegentlich seines ersten Besuches wurden in seinem Zugabteil,



in dem sich ungefähr 10 bis 15 Personen befanden, die Zustände in Auschwitz und die Massenverbrennungen laut besprochen (PE 1876).

K. Daraufhin, am 9. April 1942, bestimmte die TEA 19 241 000.— RM fuer die Leuna-Anlage und 7 584 000.— RM fuer die Buna-Anlage in Auschwitz. (PE 1441).

Am 28. Mai 1942 wurden 3 357 000.— RM fuer die Leuna-Anlage und 6 221 000.— RM fuer die Buna-Anlage in Auschwitz durch die TEA bestimmt.

Am 9. Juli 1942 bestimmte die TEA 1 207 000.— RM fuer die Leuna-Anlage und 2 670 000.— RM fuer die Buna-Anlage in Auschwitz (PE 1456).

Am 28. Oktober 1942 bestimmte die TEA 1 438 000.— RM fuer die Leuna-Anlage und 6 324 000.— RM fuer die Buna-Anlage in Auschwitz. (PE 1498).

Am 16. Dezember 1942 bestimmte die TEA 6 776 000.— RM fuer die Leuna-Anlage und 69 670 000.— RM fuer die Buna-Anlage in Auschwitz. (PE 1499).

Am 17. Februar 1943 bestimmte TEA 2 113 000.— RM fuer die Leuna-Anlage und 10 202 000.— RM fuer die Buna-Anlage in Auschwitz (PE 1502).

Am 15. April 1943 bestimmte TEA 95 000.— RM fuer die Leuna-Anlage und 3 017.— RM fuer die Buna-Anlage in Auschwitz (PE 1504).

Am 30. Juni 1943 erfolgte eine Besprechung der Lage in Auschwitzor Werk und wurden Bilder des Baues in Auschwitz gezeigt. (PE 1506).

Wieder soll bemerkt werden, dass Dr. STRUSS Auschwitz zum zweiten Mal im Sommer 1943 besuchte. Seit der Zeit, als er das erstmal von Massenvorbrennungen in Auschwitz gehört hatte, gaben ihm alle Leute, mit denen er gesprochen hatte und die von Auschwitz kamen, immer ausweichende Antworten, wenn danach befragt, ob die Dinge, die STRUSS im Zugabteil gehört hatte, die Wahrheit seien oder nicht (obgleich sie keiner bestritt). Gelegentlich seines zweiten Besuchs in Auschwitz, fragte STRUSS ausdrücklich einen der Oberingenieure der IG Auschwitz, ob die Geschichte wahr sei oder nicht. Der Oberingenieur HEIDENROCK von IG Farben bestätigte, dass sie der Wahrheit entspreche und fügte hinzu, dass die Massenvorbrennungen stattfänden, nachdem die Opfer vergast worden waren. STRUSS gab an, dass er, soweit ihm erinnerlich, sowohl mit TER MEER als auch mit AMEROS darüber gesprochen habe, was ihm Oberingenieur HEIDENROCK erzählt hatte. (PE 1876).

L. Nachher, am 1. September 1943, bestimmte die TEA 3 850 000.-- RM für die Leuna-Anlage in Auschwitz (PE 1508)..

Am 3 November 1941 bestimmte TEA 189 000.-- RM fuer die Buna-Anlage und 15 416 000.-- RM fuer die Buna-Anlage in Auschwitz (PE 1510).

M. Die Mehrzahl der Vorstandsmitglieder nahm an den TEA-Sitzungen teil, in welchen Gelder fuer Auschwitz bewilligt wurden. An der Sitzung im Oktober 1942, zum Beispiel, nahmen teil: SCHMITZ, SCHNEIDER, JUTZFISCH, TER MEER, AMEROS, WURSTER, JAEHNE, LAUTENSCHLAGER, HOERLEIN, KUEHNE, FUERGIN, GAJEWSKI, VON SCHNITZLER und HAEFLIGER. (PE 1498). Weiter, nahm auch VON KNIEREM oft an den Sitzungen der TEA teil. (PE 1425).

In der Regel trat der Vorstand am Tage nach der TEA-Sitzung zusammen, um die Geldbewilligungen, die in der TEA entschieden worden waren, zu bestaetigen. (PE 1419, 1432, 1433).

N. Die TEA wurde laufend <sup>in/</sup> Kenntnis gesetzt ueber den Stand der Belagschaft einschliesslich der verschiedenen Kategorien von Arbeitern, wie Fremdarbeiter, Kriegsgefangene und KZ-Haeflinge in den Farbenfabriken. (PE 1557). Die TEA musste davon genaue Kenntnis haben, da sie hinsichtlich der Kredite fuer die Unterbringung der Arbeiter Entscheidung zu treffen und an den Vorstand die Billigung und Anweisung der Kredite zu empfehlen hatte.

O. TER MEER berichtete dem Vorstand ueber die TEA-Sitzungen. Es war die Aufgabe des Vorstandes, als "Unternehmer" im Sinne des Gesetzes fuer Arbeitsregelung, das Los der Arbeiter zu bestimmen, die Zustaende festzustellen usw. (PE 1309).

P. Die Mitglieder der TEA erhielten nicht nur Aufklaerungen bezueglich des Arbeitseinsatzes in Auschwitz, sondern wurden



auch ueber solche Einzelheiten, wie z.B., dass von der SS fuer jeden Haeftling 3.— RM pro Tag bezahlt werden mussten, unterrichtet. Der TEA wurde angedeutet, dass dies "kaum rentabel waere, wenn man in Betracht zooge, dass man nicht normale Arbeitsleistung von den KZ-Haeftlingen erwarten koennte und dass weitere Arbeitskraft infolge des langen Marsches zur Arbeit und des Rueckmarsches zum KZ-Lager vergaetet wurde. (PE 1416).

- Q. Spaeter machte die TEA diesen langen Marsch zur Arbeit und zurueck ins KZ-Lager ueberfluessig, indem sie ungefaehr 5 000 000 RM fuer den Bau des "KZ-Lagers Mondwitz innerhalb des I.G.Gelandes aus Gruenden der Zweckmaessigkeit" bewilligte. (PE 1420).
- R. Natuerlich wurde die TEA laufend informiert ueber den Erfolg der oertlichen IG Farben-Leitung bezueglich der Beschaffung von immer mehr KZ-Haeftlingen durch die SS (PE 1426) als auch ueber die tatsaechlichen Verhaeltnisse, die bei der IG Auschwitz bestanden. (PE 1419, PE 1426).
- S. Neben dem Durchschlag der Revisionsberichte und die TEA erhielten einzelne Angeklagte wie SCHMITZ, TER MEER, SCHNEIDER, HUETEFISCH und AMEROS persoenlich ihre eigenen Kopien. (PE 1418, 1419).

- T. Ausser den Bauberichten und TEA-Sitzungen hatten verschiedene Mitglieder des Vorstandes andere Informationsquellen bezueglich IG Auschwitz. So konnte der Angeklagte SCHNEIDER, in seiner Stellung als Vorsitzender der Betriebsfuhrer-Sitzungen, die Berichte des AMEROS ueber Auschwitz hoeren. (PE 1418).
- U. Der Angeklagte JAEHNE, als Vorsitzender der TEK0 leitete die Diskussionen ueber Auschwitz. (PE 2056, PE 2057, PE 2058, Tr. 9997).
- V. Der Angeklagte AMEROS sprach in den Sitzungen des "Gummi-Ausschusses" ueber die Probleme der Auschwitz-Lunafabrik. (PE 569) (TER MEER nahm auch teil an dieser Sitzung).
- W. Alle wichtigeren Geldangelegenheiten mussten von SCHMITZ gebilligt werden, der aus diesem Grunde oft an den TEA-Sitzungen teilnahm. (Tr.7830).

(127) Hinzu kommt noch, dass noch eine andere wichtige Informationsquelle den Vorstandsmitgliedern zur Verfuegung stand. Die folgenden Farben-Angeschuldigten waren Augenzugen der Zustaeude bei der IG Auschwitz:

1. KRAUCH besuchte IG Auschwitz und das KZ-Lager Auschwitz (PE 1420, PE 1423).
2. von KNIEREM besuchte die Baustelle Auschwitz und alle Zweigstellen im November 1942 (PE 2207).
3. SCHNEIDER war zweimal bei der IG Auschwitz und nahm dort an einer Bau-Sitzung teil. (PE 1418, PE 1423, PE 1501).
4. JAEHNE besuchte IG Auschwitz dreimal <sup>und/</sup> "hin und wieder" kam sein Sohn aus Auschwitz auf Besuch zu ihm. (Tr.9997)
5. Wie AMEROS selbst zugab, besuchte er IG Auschwitz "ungefaehr viermal im Jahre 1942, funnfmal im Jahre 1943 and funnfmal im Jahre 1944" (PE 1419) und auch das KZ-Lager Auschwitz (Tr. 784, Tr.7848) sowie das KZ-Lager Monowitz, (PE 1419).

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6. BUETEFISCH besuchte Auschwitz und Fuerstengrube und nahm an mehreren Besprechungen in beiden Orten teil. (Anklagebeweisstuecke 1420, 1423, 1448, 1509, Protokoll 8782, Protokoll 8787).
7. Ter MEER besuchte sowohl das Konzentrationslager Auschwitz als auch I.G. Auschwitz, und war sogar in dem Konzentrationslager Monowitz. Er war beim I.G. Auschwitz in 1941 und 1942, also zu einem Zeitpunkt von dem sogar DUERRFELD zugibt dass die Dinge ziemlich schlecht waren; jedoch ter MEER "hat ueberhaupt nichts gesehen." (Anklagebeweisstuecke 1416, 2207).

(128) Aus der Ueberpruefung des Beweismaterials in Verbindung mit dem 3. Teil dieses Briefes haben wir gesehen, dass diese Angeklagten wussten dass Tausende von Menschen in Auschwitz und anderen Konzentrationslagern vernichtet wurden; dass sie eine Baustelle fuer einen ihrer grossten Betriebe mit dem Gedanken wachten diese Haeflinge zur Arbeit einzusetzen; dass sie aus eigener Initiative auf immer mehr und mehr Haeflinge druehten um den Bau zu beschleunigen, und gleichzeitig darauf bestanden dass sie sich in gutem Gesundheitszustand befinden sollten; dass sie diese Menschen zwangen unter derartig unmenschlichen Verhaeltnissen zu arbeiten; dass Tausende von ihnen starben; dass die an der Baustelle und in ihren Betrieben beschaeftigten Haeflinge in die Gaskzellen geschickt wurden wenn sie nicht mehr arbeitsfaehig waren; und dass diese Angeklagten wussten dass die Aktion den Bau um jeden Preis zu beschleunigen und die Produktion zu erhoehen dazu fuehrte, dass Zehntausende von Haeflingen vernichtet wurden weil sie als arbeitsunfaehig angesehen wurden. Wir haben ferner gesehen, dass Farben teilweise das fuer die Verbrennung der Leichen benutzte Methanol lieferte (Anklagebeweisstueck 1517) und ihren Anteil von den alten Kleidungsstuecken der Opfer erhielt (Anklagebeweisstuecke 1829, 1484).



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(129) Diese Dinge erscheinen fast unglaublich. Die Einstellung die solche Vorkommnisse möglich machen kann wird vielleicht am besten in einem Brief vom 30. Juli 1942 geschildert, der von einem Angestellten der IG Farben Auschwitz an einen Direktor der IG Farben in Frankfurt/M. gerichtet ist:

"Sie koennen sich denken dass die Bevoelkerung den Reichsdeutschen, besonders uns von der IG, nicht freundlich oder auch nur korrekt entgegentritt. Nur die Tatsache, dass die bewaffnete Macht (K.Z.Jager) im Hintergrund steht, heisst das schmutzige Volk zurueck, aufsassig zu werden. Boese Blicke, die uns zuweilen zugerufen werden, sind nur einmal nicht zu bestrafen. Aber ungeachtet dieser Tatsache fuehlen wir uns hier ganz wohl."

"Dass die Zahl der Unterkunftsbarracken immer mehr anwaechst und so eine grosse Barrackenstadt entstanden ist, koennen Sie sich bei der grossen Gefolgschaftstaerke wohl vorstellen. Dazu kommt noch der Umstand, dass einige 1000 fremdlaendische Arbeiter da fuer sorgen, dass unsere Lebensmittelbestaende nicht schlecht werden. So finden wir Italiener, Franzosen, Kroaten, Belgier, Polen, und als "ergste Mitarbeiter" die sogenannten Strafgefangenen aller Schattierungen. Dass die juedische Rasse hier eine besondere Rolle spielt, koennen Sie sich denken. Die Vernuegung und Behandlung dieser Sorte Menschen ist zweckentaprechend. . . . Irgendwelche Gerichtsverfahren . . . . duerften hier kaum zu verzeichnen sein. Dass bei einem geringsten Versuch, eine Luftveranderung vorzunehmen, die Kugel pfeift, ist eine ebenso feststehende Tatsache wie die, dass schon viele wegen "Hitzschlag" abhanden kamen." (FE 1497)

(130) Noch viel bezeichnender als der Briefwechsel zwischen zwei IG Farben Beamten ist die Korrespondenz zwischen KRAUCH und HIMMLER, derzufolge KRAUCH mit der Auschwitzer "Methode" fuer die Loesung von Arbeits-Problemen so zufrieden ist, dass er HIMMLER vorschlug, Probleme bei anderen Baustellen auf dieselbe Weise zu loesen. In Juli 1943 schrieb er an HIMMLER, er

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"...habe es besonders begruesst, dass Sie gelegentlich dieser Besprechung angedeutet haben, eventuell den Ausbau eines weiteren Synthesewerkes, sohnlich wie in Auschwitz, durch die Zurverfuegungstellung von Insassen aus Ihren Lagern gegebenenfalls zu unterstützen. Ich habe im entsprechenden Sinne auch dem Herrn Minister SPILLER geschrieben und waere Ihnen dankbar, wenn Sie uns in dieser Angelegenheit weiter Ihre Foerderung und volle Unterstuetzung angedeihen liessen." (FE 1526)

Im Februar 1944 gab der mit der Auschwitz-Loesung noch immer hoechst befriedigte KRAUCH die folgenden Weisungen an den Bau von Heydebrack zu beschleunigen:

"Um aus dem dauernden Arbeitsmangel herauszukommen, muss er so schnell wie moeglich nach dem Vorbild von AZ (Auschwitz).....ein grosses KZ-Lager einrichten." (Anklagebeweisstueck 1845)

(f) Analyse der Verteidigung fuer Auschwitz.

(131) Nachdem die Hauptstuetzen des Beweises fuer die Beweislast der Anklage bezueglich der Schuld der Angeklagten in Verbindung mit dem unter Anklagepunkt III (a) erwachten Verbrechen vorgelegt worden sind, waere es vielleicht angebracht, den Charakter und die Qualitaet der Verteidigung fuer Auschwitz seitens der Angeklagten kurz zu beschreiben. Angesichts der Tatsache, dass die DUERRFELD Verteidigung, wie es in dem Protokoll angegeben worden ist, die Verteidigung aller Angeklagten in Verbindung mit Auschwitz einschliesst, (Prot. 11290), wird sich die Ausfuhrung auf das von DUERRFELD eingefuehrte Beweismaterial beschraenken.

(132) Zunaechst muss bemerkt werden, dass weniger als 10% von den 427 Dokumenten die in den 19 DUERRFELD Dokumentenbuechern enthalten sind, aus der fraglichen Zeit stammen. Alle uebrigen waren eidesstattliche Erklaerungen.

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(133) Von den 40 aus der fraglichen Zeit stammenden Dokumenten, die eingeführt wurden, stammen 9 aus SS-Dienststellen und beziehen sich auf periphere Aspekte des Falles.



- (1) In einem bringt HIMMER seine Besorgnis darüber zum Ausdruck, dass man den Eindruck bekommen könnte, "dass wir Leute verhaften, oder, nach ihrer Verhaftung zurückbehalten, um Arbeiter zu bekommen." (DUEHR.Bew. 367)
- (2) Vier Schriftstücke beziehen sich auf verschiedene Gegenstände, wie z.B. Zahl der Arbeitsstunden (DUEHR.Bew. 368), Entfernung von Bomben (DUEHR.Bew. 369), Fluchtverhinderung (DUEHR.Bew. 374) und das SS-Verbot gegen "Prügeln, Schlagen und sogar Berühren der Lager-Insassen". (DUEHR.Bew. 375)
- (3) Drei andere Beweisstücke, wovon eines von der Anklagebehörde vorgelegt wurde, während die zwei anderen von ihr hätten vorgelegt werden sollen, beweisen: dass unter allen von Auschwitz versorgten Industrieunternehmen IG-Farben die meisten Konzentrationslagerinsassen beschäftigt (DUEHR.Bew. 371); dass von den 21 Firmen IG-Farben, Auschwitz, Janina, Fuerstengrube und Guenthergrube Konzentrationslagerinsassen beschäftigten (DUEHR.Bew. 372) und dass von sieben Firmen, welche in Auschwitz Arbeitskräfte aus Konzentrationslagern beschäftigten, die IG-Farben allein mehr als die Gesamtzahl der von den sechs anderen Firmen zusammen beschäftigten Lagerinsassen beschäftigte. (DUEHR.Bew. 373)
- (4) Schliesslich das neunte SS-Schriftstück, welches ebenfalls von der Anklagebehörde hätte benutzt werden sollen, ein Schreiben von POHL an BRANDT, mit welchem die Verantwortung fuer die Unterbringung von Konzentrationslager-Häftlingen, welche fuer die Privatindustrie arbeiten, ausdrücklich der Industrie übertragen wird. (DUEHR.Bew. 370)

(134) Von den 40 aus der kritischen Zeit stammenden Schriftstücken sind 13 Auschwitz Wochenberichte (DUEHR.Bew. 381 bis 393). Angesichts des Umstandes, dass die von der Anklagebehörde vorgelegten Wochenberichte positiv die Initiative der IG-Farben beim Einsatz von Konzentrationslager-Insassen und die Einstellung der IG-Farben hinsichtlich der Behandlung der bei der IG-Auschwitz arbeitenden Insassen nachweisen, hatte die Anklagebehörde die von der Verteidigung vorgelegten 13 Wochenberichte durchstudiert, um ein Beispiel dafür zu finden, dass von aussen her irgendein Druck auf die Bauleitung der IG-Farben ausgeübt wurde, Konzentrationslager-Insassen zu beschäftigen oder einen Hinweis darauf, dass die IG-Farben-Bauleitung gegen das Prügeln von Lagerinsassen bei der IG-Auschwitz Stellung nahm. Es braucht nicht erst gesagt zu werden, dass die von der Verteidigung beigebrachten Wochenberichte weder das eine noch das andere enthielten.

(135) Sechs von den 40 Schriftstuecken sind die Vertraege zwischen IG-Farben und den Baufirmen. (DUERR.Bew. 4, 5, 6, 7, 8, 9)

(136) Neun von den 40 Schriftstuecken sind eine Zusammenfassung von vier Erlaessen des Justizministeriums bezueglich des Einsetzes von Strafgefangenen. (DUERR.Bew. 377, 378, 379, 380); drei Schriftstuecke beziehen sich auf Arbeitsschutz und Unfallverhuetung (DUERR.Bew. 39, 50, 51); ein Schriftstueck, aus welchem hervorgeht, dass DUERRFELD nach Ludwigshafen fuhr, um eine Besprechung ueber Buna IV zu fuehren (DUERR.Bew. 125) und ein Beweisstueck, welches darlegt, dass das Wasser bei der IG-Farben in Auschwitz nach 1943 trinkbar war. (DUERR.Bew. 37).

(137) Schriftstueck No. 1055 (DUERR.Bew. 11) ist ein interessanter Bericht eines franzoesischen Arztes, der die einzelnen Lager besichtigte. Offensichtlich wurde es von der Verteidigung mitvorgelegt, weil ein Satz den Ausdruck "ein Musterlager" enthaelt. Die Anklagebehoerde legt nun den ganzen Satz in seinem Zusammenhang vor. Unter der Ueberschrift "Krankenabteilungen" heisst es:

"Qualitaet und Haltung sind nousserst verschieden und haengen nicht immer vom allgemeinen Tempo des Lagers selbst ab. Zum Beispiel sah ich in Auschwitz, Oberschlesien, in 1 km Entfernung von einem Musterlager mit 2000 Maennern ein Barackenrevier, das voll Wanzen war, der Abort bestand aus einer kleinen Aussenhuette und war abstoessend schmutzig. In den meisten Faellen ist die Behandlung in derartigen Revieren mangelhaft."

Unter der Ueberschrift "Sanitaetsmaterial", welche die Verteidigung vollkommen uebergeht, weist der Bericht auf den grossen Mangel an medizinischen Behelfen hin, insbesondere fuer die "vernachlaessigten Lager, besonders solche wie Auschwitz, welches von der Krankenabteilung sehr weit entfernt ist". Auch uebergeht die Verteidigung den Absatz, welcher von den Verpflegsverhaeltnissen handelt, in welchem es heisst:

"Es gibt heute eine ganze Reihe von Lagern, in welchen, ungeachtet eines 12-Stunden-Arbeitstages, die Lebensmittelrationen nicht erhoeht wurden."

Es heisst dann weiter darin, dass "es in gewissen Lagern, wie z.B. DEMAG, Berlin, dank Mistereinrichtungen und grossen Bemuehungen seitens der Leitung, gelungen sei, wirklich anstaendiges Essen auszugeben". Auschwitz aber glaenzt bei der Aufzaehlung der Lager, wo es dank der Bemuehungen der Leitung gelungen war, anstaendiges Essen auszugeben, durch seine Abwesenheit!

(138) Die beiden letzten der vorgelegten 40 Schriftstuecke sind beide von Interesse, besonders deshalb, weil man weder das eine noch das andere fuer sich selbst sprechen laesst. Bei jedem der beiden hat die Verteidigung eidesstattliche Erklaerungen mitvorgelegt, welche erlautern und beweisen sollen, dass es in Wirklichkeit etwas anderes bedeutet als drin steht.

(139) Schriftstueck 1061 (DUERR.Bew. 27) z.B. besteht aus drei Speisezetteln, mit Angabe der taeglich ausgegebenen Mahlzeiten fuer (1) Schwarzarbeiter, polnische Kueche; (2) Schwarzarbeiter, deutsche Kueche; und (3) Ostarbeiter. Alle drei Speisefolgen sind offenbar vollstaendig. Tatsaechlich ist aber dort, wo irgendeine Zubuesse verabreicht wird, wie z.B. bei der Speisefolge der deutschen Arbeiter, dieselbe am Fusse der Speisefolge vermerkt. Trotzdem legte die Verteidigung eine eidesstattliche Erklaerung vor (DUERR.Bew. 28), worin erklaert wird, dass die Speisefolge der Ostarbeiter eigentlich nicht vollstaendig ist, da den Ostarbeitern zusaetzliche Portionen verabfolgt wurden, welche auf dem Speisezettel nicht angefuehrt sind. Der offensichtliche Grund der die Speisefolgen erlauternden eidesstattlichen Erklaerungen der Verteidigung ist es, dass man bei der blossen Betrachtung der Speisefolge fuer die Ostarbeiter offen sieht, dass die Ostarbeiter von der IG-Farben ausgehungert wurden. In diesem Zusammenhang ist es erwaehenswert, dass der Verteidigungszeuge SAVELSHERG (Leiter der kommerziellen Abteilung der IG-Farben Auschwitz), im Kreuzverhoer zugab, dass die Ostarbeiter noch weniger Essen erhielten als die Konzentrationslager-Insassen in Monowitz. (Prot. 14390)



(140) Das letzte Schriftstueck, Nr. 258 (DUERR.Bew. 42) gibt an, dass die bei der IG-Farben beschaeftigten Konzentrationslager-Insassen unfallversichert waren. Auch hier wird behuelfs Erklaerung des irrefuehrenden Charakters des Schriftstueckes von der Verteidigung wieder die eidesstattliche Erklaerung (DUERR.Bew. 43) herangezogen, worin es heisst, IG-Farben haette geglaubt, dass die Kosten der Versicherung der Konzentrationslager-Insassen in der taeglichen Zehlung an die SS inbegriffen sein wuerden.

(141) Das Obengesagte bezieht sich auf die Verteidigung der IG-Farben hinsichtlich Auschwitz, insoweit sich diese Verteidigung auf aus der kritischen Zeit stammende Schriftstuecke stuetzt.

(142) Was die Verteidigung sonst noch fuer Auschwitz zu sagen hat, stuetzt sich auf 386 eidesstattliche Erklaerungen. Ganz offensichtlich waere es undurchfuehrbar gewesen, alle oder einen wesentlichen Teil der Verfasser der eidesstattlichen Erklaerungen zum Kreuzverhoer nach Nuernberg zu bringen. Statt dessen hat die Anklagebehoerde das Kreuzverhoer der zwei wichtigsten Zeugengruppen verlangt; (1) die fuehrenden Persoenlichkeiten bei der IG-Auschwitz und (2) alle Abfasser von eidesstattlichen Aussagen, die fruher Konzentrationslager-Insassen waren.

#### DIE FUEHRENDEN PERSOENLICHKEITEN BEI DER IG-AUSCHWITZ

(143) Die folgenden waren die fuehrenden Gestalten bei der IG-Auschwitz: FAUST, Bauleiter; MURR, Bauleiter (FAUSTs Vorgaenger); BRUNUS, Hauptbeauftragter von BUETEFISCH; SANTO, Leiter der Buns-Abteilung; SELVENSBERG, Leiter der kaufmaennischen Abteilung; Helmut SCHNEIDER, stellvertretender Leiter der Sozial- und Personalabteilung; DOEMING, Hauptwohnbauleiter; HEIDEBROCK, Maschineningenieur; von BLARENFELS, Personal- und Sozialwesen; etc.

(144) Es eruebrigt sich hier, das vernichtende Zeugnis zu wiederholen, welches fast alle diese Zeugen im Kreuzverhoer gegen die Verteidigung abgaben. Dieses laesst sich hinlaenglich aus den Abschnitten "Der Anstoss zum Einsatz von Konzentrationslager-Insassen",

"Ernährung", "Arbeitsbedingungen", "Bekleidung", "Strafen", etc. ergeben. Was vielleicht noch bezeichnender ist als das von diesen IG-Angestellten zögernd abgegebene, vernichtende Zeugnis ist das Beweismaterial, welches in diesem Verfahren nicht vorgelegt wurde.

(144) Der Verteidigungszeuge F.UST, der Bauleiter der IG-Auschwitz war und persönlich jeder wichtigen Sitzung beiwohnte, wo um den Einsatz von Konzentrationslager-Insassen an die SS herangetreten wurde, gab der Verteidigung sechs eidesstattliche Erklärungen, erwähnte jedoch nicht ein einzigesmal die Beschaffung von Arbeitskräften aus dem Konzentrationslager.

(145) Der Verteidigungszeuge ROSSBACH, einer der Hauptabteilungschefs - Leiter des Arbeitseinsatz- und Sozialwesens (Prot. 14016), der gerade der Mann bei der IG-Auschwitz gewesen wäre, der hinsichtlich aller Personal- und Sozialfragen (Prot. 14023, siehe auch Prot. 11657 und Prot. 11671), am besten unterrichtet gewesen sein sollte, gab der Verteidigung zwei eidesstattliche Erklärungen (DUERR.Bew. 143 und 167), von denen keine Sozial- und Personalfragen auch nur oberflächlich berührte. Und das Wenige, was ROSSBACH in seinen je eine Seite umfassenden eidesstattlichen Erklärungen aussagte, wurde noch von Dr. SEIDL (Prot. 13363) zurückgezogen, als die Anklagebehörde ein Gegen-Affidavit des gleichen Zeugen zum Beweis anbot, welches sich tatsächlich mit den ihm vertrauten Zuständen in Auschwitz befasste (Ankl.Exh. 2209). Angesichts der Zurückziehung der zwei Verteidigungs-Affidavits des Zeugen ROSSBACH musste das Anklage-Affidavit des gleichen Zeugen als ein Gegenbeweis stehen oder fallen. Das Gericht hat dann entschieden, dass es kein taugliches Gegenbeweismaterial sei.

(146) Die gleiche Lage ergab sich hinsichtlich des Zeugen von BLARENFELS, welcher, wie die Verteidigung angekündigt hatte, vor Gericht erscheinen würde (Prot. 11378). Die eidesstattliche Erklärung (DUERR.Dok. 123) wurde nicht einmal zum Beweis angeboten.

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Zwei Affiants, HEYDEBRECK und SANTO, in obiger Aufzählung als zum höheren Stab der IG in Auschwitz gehörig aufgeführt, sind zum Kreuzverhoer nicht erschienen. (Anm.: Die Anklagebehörde räumt ein, dass SANTO ziemlich spät angefordert wurde und vielleicht nicht in der Lage war, rechtzeitig zu erscheinen.)

Aussteller von eidesstattlichen Erklärungen, welche früher in einem Konzentrationslager waren.

(147). 15 der 306 eidlichen Aussagen stammen von früheren Konzentrationslagerinsassen. Die Anklagebehörde verlangte sofort, dass alle 15 im Kreuzverhoer vernommen wurden, denn es erscheint unvorstellbar, dass auch nur ein Insasse aussagen könnte, die IG treffe kein Verschulden, oder die Verhältnisse wären nicht schlecht gewesen, und dass er dies auch im Kreuzverhoer aufrecht erhalten könnte, es sei denn, der Charakter der Insassen schloesse die Wahrscheinlichkeit der Glaubwürdigkeit aus. Die Reihenfolge, in der sie ins Kreuzverhoer genommen wurde, war folgendermassen:

(148) NESTLER. Nachdem es sich herausgestellt hatte, dass NESTLER als Gewohnheitsverbrecher ins KZ gekommen war, nach elfmaliger Verurteilung wegen Betruges und Fälschung zwischen 1919 und 1931, und ausserdem, nachdem er den grössten Teil seines Lebens zwischen 1919 und 1945 im Gefängnis verbracht hatte, während der Amerikanischen Besetzung wiederum verurteilt wurde - hat die Anklagebehörde keine weiteren Fragen bezüglich seiner eidesstattlichen Erklärung gestellt. (Tr. S. 11965).

(149) TAUB. Da TAUB erwiesenermassen nicht vorbestraft ist, wurde er von der Anklagebehörde ins Kreuzverhoer genommen und bezüglich seiner eidesstattlichen Aussage befragt. Die bei dieser Vernehmung zu Tage getretenen Tatsachen stimmen vollständig mit den Aussagen der als Belastungszeugen vernommenen Lagerinsassen überein. (Tr.S.13482-9).



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(150). Hierauf zog die Verteidigung die eidesstattlichen Aussagen  
drei weiterer nicht vorbestrafter Insassen zurueck; zwei von ihnen  
waren bereits in Nuernberg zum Kreuzverhoer erschienen: (Tr.S.13491).

WACHSELINN	(DUEFFELD Exh. 189)
SCHULDEAN	( " " 210)
LOEWENBRUN	( " " 217)

(151) DIETRICH. Da DIETRICH nicht vorbestraft ist, wurde er zu seiner eidesstattlichen Aussage ins Kreuzverhoer genommen, und die dabei zu Tage getretenen Tatsachen stimmen in jeder Beziehung und vollstaendig mit den Aussagen der als Belastungszeugen vernommenen Insassen ueberein. (Tr. S. 13755-71).

(152) KRUSCHENSKI. Bei dem Kreuzverhoer dieses Zeugen stellte sich heraus, dass er das gruene Dreieck der Gewohnheitsverbrecher tragen musste, dass er im Jahre 1936 wegen Betruges und Unterschlagung verurteilt worden war, desgleichen im Jahre 1938 wegen derselben Vorgehen, dass 9 Verbrechen im Jahre 1939, welche er als Kriegsverbrechen bezeichnet, in Wirklichkeit Betrug, Urkundenfaelschung und Unterschlagung waren, die ihm als letzte Freiheitsstrafe 12 Jahre Zwangsarbeit eintrugen, desgleichen Verlust der buergerlichen Ehrenrechte und schliesslich die Verwahrung in einem Konzentrationslager. Auf Grund dieser Ermittlungen stellte die Anklagebehoerde keinerlei Fragen hinsichtlich des Wertes der eidesstattlichen Aussage. (Tr.S. 14212-20).

(153) HIRSCH. Im Krouzverhoer stellte es sich heraus, dass dieser Zeuge, angeblich ein Verfolgter des Naziregimes, am 1. April 1931 in die Naziartei eintrat, einige Monate spaeater Mitglied der SA wurde, im Jahre 1932 aus der Partei ausgeschlossen worden war und sich im Jahre 1933 um Wiederzulassung bowarb, aber abermals abgewiesen wurde. Im Jahre 1934 gruendete er eine Hitlerjugendgruppe. Bei der I.G. in Auschwitz, wo er zuerst Mitte 1944 auftrat, wurde ihm das seltene Vorrecht gewachrt, sein Haar lang tragen zu duerfen, obwohl die anderen Insassen kahl geschorene Koepfe haben mussten. Seine Erklaerung war, dass ihm der SS-Lagerkommandant "in der Trunkenheit" seine Bitte, sein Haar behalten zu duerfen, gewachrt hat. Bei einer Gerichtsverhandlung im Jahre

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1941 gab er das wissentlich falsche Zeugnis ab, er sei der Partei im Jahre 1930 beigetreten und sagte ferner wissentlich falsch aus, er wäre auch in der SS gewesen. Im Jahre 1948 verbarg er einen SS-Mann in seiner Wohnung. Auf Grund dieser Ermittlungen verzichtete die Anklagebehörde auf Fragen hinsichtlich des Wortes seiner Aussage. (Tr. 14195-209).



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(154.) FUERSTENBERG. Das Kreuzverhoer ergab folgende Tatsachen: Obwohl der Zeuge behauptet, wegen politischer, d.h. pazifistischer Vergehen verhaftet worden zu sein, hatte er das grüne Dreieck der Gewohnheitsverbrecher zu tragen. Im Jahre 1926 wurde er wegen Heineid zu einem Jahr Zwangsarbeit und Verlust der bürgerlichen Ehrenrechte verurteilt; ferner wurde ihm untersagt, Zeugnis abzulegen (der Zeuge wusste nicht genau, ob sich dieses Verbot auf fünf Jahre oder auf Lebenszeit erstreckte). In demselben Jahr wurde er wegen Abgabe einer falschen eidesstattlichen Aussage verurteilt. (Der Zeuge gibt an, beide Verurteilungen waren das Ergebnis derselben falschen Bekundung, eine falsche eidesstattliche Aussage und ein Heineidszeugnis). Im März des Jahres 1933 wurde der Zeuge wegen Urkundenfälschung, ungesetzlicher Verabredung und Betruges verurteilt. Trotz seiner Bekundung, er sei in letzten Jahre ein Geschäftsmann gewesen, gab er zu, im Oktober 1947 von der Verteidigung im IG Prozess 2000 Mark erhalten zu haben, um ohne Lebensmittelkarten in Berlin vom schwarzen Markt leben zu können, während er frühere Insassen lediglich zum Zwecke "belehrender Unterhaltung" über ihre Eindrücke von Auschwitz aufsuchte. Er hat zugegeben, im November 1947 von der Verteidigung im IG Prozess 3000 Mark erhalten zu haben. Auf die Frage ob er noch sonstige Dinge zusätzlich zu diesen 5000 Mark erhalten habe, gestand er ein:

"Von Ludwigshafen hat ich keinerlei Sachen erhalten. Aber Dr. ALT hat in meinem Interesse in Ludwigshafen verhandelt, und ich erhielt von zwei Firmen zwei Sendungen Lein, welche von diesen beiden Firmen und nicht von mir bezahlt wurden." (Tr.S. 14382/83).

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Im Hinblick auf das Vorstehende stellte die Anklagebehörde keine Fragen hinsichtlich des Wertes seiner eidesstattlichen Aussage (Tr. 14221-245).

(155) Daraufhin zog Dr. SEIDL die eidesstattlichen Aussagen der verbleibenden fünf nicht vorbestraften Zeugen zurück.

ELIASOITZ	(DUERRFELD Exh. 90
FRANKEL	" " 111
JACHEMNN	" " 119
SCHILTZ	" " 182
GRUENFELD	" " 180.)

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(156). SCHERFADLY. Bei dem Kreuzverhoer stellte sich heraus, dass dieser Zeuge bei seiner Arbeit bei der IG in Auschwitz das grüne Dreieck der Gewohnheitsverbrecher zu tragen hatte, dass er im Jahre 1920 wegen Diebstahls verurteilt worden war, desgleichen im Jahre 1922 wegen desselben Verbrechens, desgleichen im Jahre 1923 wegen Diebstahls und Handelns mit Gold, Silber und Platin, sowie wegen schweren Diebstahls. Er wurde zu zwei Jahren und sechs Monaten Freiheitsstrafe und zum Verlust der bürgerlichen Ehrenrechte auf die Dauer von fünf Jahren verurteilt. Im Juli 1923 wurde er wegen Hehlerei bestraft, anscheinend als Begleiterscheinung des Verbrechens schweren Diebstahls. Im Jahre 1929 wurde er wegen Hehlerei zu einem Jahr Zuchthaus und wiederum zum Verlust der bürgerlichen Ehrenrechte auf die Dauer von fünf Jahren verurteilt. Im Jahre 1932 wurde er wegen Rauschgift Diebstahl und schweren Diebstahls zu zwei Jahren und neun Monaten Zuchthaus und zum Verlust der bürgerlichen Ehrenrechte auf die Dauer von fünf Jahren verurteilt. Von 1932 bis 1945 verblieb er in Gefängnissen und Konzentrationslagern. Nach Erhalt der obigen Zeugenaussage, fragte der Anklagevertreter:

- Fr.: Nun, Herr Zeuge, haben Sie dem Gericht sämtliche Verbrechen aufgezählt, wegen denen Sie verurteilt worden sind?
- A.: Soweit ich mich entsinnen kann, ja.
- Fr.: Sind Sie sicher, alles gesagt zu haben?
- A.: Soweit ich mich entsinnen kann, ja.
- Fr.: Herr Zeuge, ist es richtig, dass Sie erst kürzlich am 27. März 1946 wegen Unterschlagung verurteilt worden sind?
- A.: Ja, das war Unterschlagung, das stimmt." (Tr. fehlt, muss aber auf die englische Seite 14425 folgen).

Die Anklagebehörde stellte keine Fragen hinsichtlich des Wertes der eidesstattlichen Zeugenaussage. (Tr. 14499-507).



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(157). In Anbetracht der Tatsache, dass sich die Anklagebehörde des gesamten Spitzenpersonals der IG in Auschwitz und aller als Entlastungszeugen benannten Insassen bedient hat, glaubt die Anklage eine hinreichende Unterlage fuer eine Urteilsbildung des Gerichts hinsichtlich des unzeitlichen von der Verteidigung im Auschwitz Prozess vorgelegten Beweismaterials geschaffen zu haben.

(G) Einige Behauptungen der Verteidigung.

(158) Dieses Plädoyer wurde unvollkommen sein, wollte die Anklagebehörde nicht einige Behauptungen der Verteidigung hinsichtlich der Anstrengungen der IG, das Leben der KZ-Insassen angenehmer zu gestalten, auf ihre Stichhaltigkeit hin untersuchen. Die drei von der IG angeblich unternommen wichtigsten "menschenfreundlichen" Schritte waren die folgenden:

- (1) Die Errichtung der Umzäunung um das IG Farben Baugelände.
- (2) Die Errichtung des Konzentrationslagers auf dem IG Gelaende.
- (3) Die Einführung des Praemien-systems.

(159). Es wird unterstellt, dass alle diese Massnahmen, die heute als Beispiele der IG Mildherzigkeit aufgeführt werden, zur Zeit ihrer Einführung nach offenem Eingeständnis keinen anderen Zweck verfolgten, als den Bau zu beschleunigen.

(160). In jedem Einzelfall hat die Verteidigung zahlreiche eidesstattliche Aussagen und umfangreiche Zeugenbekundungen zur Bekräftigung ihrer Behauptungen angeboten, aber auch nicht die Spur eines zeitgenössischen Dokumentes. Die Anklagebehörde bittet nunmehr das Gericht, sein Augenmerk auf das folgende Beweismaterial zu richten, welches ausschliesslich aus zeitgenössischen Dokumenten und Eingeständnissen von Entlastungszeugen besteht:

Konzentrationslager Monowitz:

(161). Alle Angeklagten haben behauptet, das Konzentrationslager Monowitz wäre erbaut worden, um den Lagerinsassen, die vorher im Konzentrationslager von Auschwitz untergebracht waren, bessere Lebensbedingungen zu schaffen. Zeitgenössische Dokumente erweisen unmissverständlich das genaue Motiv fuer die Errichtung des KZ Monowitz auf dem IG Gelaende. Wegen einer Fleckfieberepidemie teilte das KZ Auschwitz im Sommer des Jahres 1942 der IG Auschwitz keine Insassen zu. Die Wochenberichte vom August 1942 der IG in Auschwitz

verzeichnen eine Unterredung mit dem KZ Lagerkommandanten, in der folgendes gesagt wurde:

"Mit dem Wiedereinsatz der Häftlinge ist vor Ablauf von etwa drei Wochen nicht zu rechnen, da vor einigen Tagen wieder ein neuer Krankheitsfall aufgetreten ist. Die Kommandatura ist dagegen bereit, Neuzugänge unmittelbar unseren Lager zuzuführen, sobald dieses fuer die Aufnahme von Häftlingen fertiggestellt ist." (Inkl. Exh. 2206).

(162) Während einer monatlichen Baukonferenz im September 1942, der BUETEFISCH, MBROS und DUERRFELD beiwohnten, wurde der Zweck der Errichtung des KZ Monowitz vollkommen klar gekennzeichnet; hinsichtlich der "Hauptsorge" der Bauleitung, nämlich der Zuteilung der Kontingente und der "Beschaffung von Arbeitern" sagt der Bericht folgendes:

"Der Einsatz von Häftlingen und Juden durch das KZ ist z.Zt. aus hygienischen Gruenden unmöglich. Um neu ankommende, nicht verseuchte Juden und Häftlinge einsetzen zu koennen, soll auf der Baustelle ein Lager fertig gestellt werden, in dem fuer diese Quartier geschaffen wird." (Inkl. Exh. 1448).

(163) Der Angeklagte KRAUCH hat zugegeben, das MBROS und BUETEFISCH "aus Zweckmassigkeitsgruenden dem Vollzugsausschuss der IG die Errichtung des KZ Monowitz auf dem IG Gelände Auschwitz vorschlugen". (Inkl. Exh. 1420).

(164) Man wird sich entsinnen, dass MBROS von Anfang an dem TEL mitgeteilt hat, man wuerde nicht mit einer normalen Arbeitsleistung der KZ Häftlinge rechnen koennen, besonders weil "weitere Kraefte auf dem langen Innarschweg zur Arbeit und auf dem Rueckweg nach dem KZ verloren gingen". Man muss sich ferner merken:



"Walter DUERRFELD gab als Grund fuer die Errichtung eines Konzentrationslagers auf dem IG-Gelände Auschwitz an, dass der Transport von Haeftlingen zu viel Zeit in Anspruch nehme."

Das Verguetungssystem.

(165) Das viel besprochene Verguetungssystem wurde angeblich durch Farben eingefuehrt, um dadurch die Ernahrungszuteilungen der Insassen zu erhoehen. Es ist absolut klar, dass dies ein anderes Mittel war mit dem einzigen Zweck, die Bauarbeiten zu beschleunigen.

(166) FAUST, der Oberbauleiter der IG Auschwitz, gab waehrend seines Kreuzverhoers zu, dass das Verguetungssystem der IG Auschwitz eingefuehrt wurde

"fuer den speziellen Zweck, die Leistungen der Insassen zu erhoehen." (Tr. 13985)

(167) Es wird darauf hingewiesen, dass die SS im allgemeinen alle Firmen ermachtigte, ein Verguetungssystem einzufuehren, um die Leistungen und die Arbeitswilligkeit der Insassen zu erhoehen." Die Leitung der IG Farben in Fuerstengrube legte die SS-Ermachtigung so eng aus wie moeglich. Die Leitung erklaerte sich bereit, den Vorschlag auszufuehren, bemerkte aber, dass

"Sorge getragen werden muss, dass nur diejenigen Insassen, welche sie wirklich verdient haben, die Verguetung erhalten."

Die von der IG Farben erlassene Bestimmung besagt,

"dass nur wirklich fleissige Insassen in Betracht kommen werden, und zu Beginn nur ungefaehr 5% der angestellten Insassen."

Die SS-Ermachtigung enthielt nichts, was die Verguetung auf 5 % der Insassen beschraenkte. Das Dokument "aus damaliger Zeit" macht es klar, dass Farben's Moeglichkeit, den Insassen zu helfen, nicht genutzt wurde, um

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den Insassen zu helfen, sondern um den Anreiz fuer erhoehte Leistungen wachzuhalten dadurch, dass die Gruppe derjenigen, die die Verguetung erhielten, moeglichst klein gehalten wurde.

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(168) Die Farben-Methode, Lebensmittel als Mittel zu benutzen, um die Leistungen schwacher und hungernder Insassen zu erhoehen, ist in dem System der drei Ernahrungsgruppen weiter veranschaulicht. Farben teilte seine Arbeiter in drei Ernahrungsgruppen ein; dies hatte den ausdruecklichen Zweck, die Leistungen zu erhoehen und sogenannte "Drueckeberger" zu bestrafen. In einem damaligen Document aus dem Auschwitz Wochenbericht wird erkleart:

"Die Verpflegung fuer die Ostarbeiter wurde zum Zwecke der Leistungssteigerung auf eine andere Basis gestellt, und zwar wurde eine Teilung in drei Gruppen vorgenommen. Gruppe 2 entspricht der Durchschnittsverpflegungsquote, Gruppe 1 - Gruppe 2 plus 25%, Gruppe 3 - Gruppe 2 minus 25 %. Hierdurch ist die Moeglichkeit geschaffen, Arbeitsunwillige innerhalb der Gruppe 3, besonders Arbeitswillige dagegen innerhalb der Gruppe 1 zu verpflegen."

Der Farben Zaun.

(169) Man wird sich entsinnen, dass die Angeklagten, insbesondere AMBROS, grossen Wert auf die Errichtung des Farbenzauns um die Baustelle legten, der den Zweck hatte, die SS fernzuhalten und den Insassen mehr Freiheit zu geben.

(DUERR.Exh. 2, Affidavit Helmut SCHNEIDER). Wenn die Bauleitung der IG. Farben in Auschwitz jemals diese Absicht gehabt hatte, erschien sie nie in irgendeinem der Bauberichte oder Auschwitz-Wochenberichte.

(170) Das Ziel, wie es in den damaligen Dokumenten dargestellt wird, ist etwas realistischer und weniger menschlich:

"Die Haeftlinge koennen nur bei Tageslicht ausruecken und muessen bei Tageslicht im Lager wieder einruecken. Auch bei Nebelbildung in den fruehen Morgenstunden wird ein Ausruecken der Haeftlinge nicht gestattet. Es ist infolgedessen nicht moeglich, die Haeftlinge im Schichtbetrieb einzusetzen; sie koennen vielmehr nur fuer die Tagesschicht in Frage.  
Die Verhaeltnisse werden sich natuerlich bessern, wenn die Baustelle eingefriedet ist." (PB 1985)

"Es wurde der Haeftlingseinsatz, insbesondere die Gestellung von Wachmannschaften eingehend besprochen, Herr Brigadefuehrer GLUECKS konnte



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uns weitere Bewachungsmannschaften nicht zusagen. ... Auf jeden Fall versprechen wir uns nach der Erstellung der Fabrikeinzaunung, mit der in der naechsten Woche begonnen wird, eine bessere Verteilung bzw. Aufteilung der Haeftlinge."

(PE 2127)

"Weitere Haeftlinge konnten auch diese Woche nicht abgestellt werden, da es immer noch an der noetigen Wachmannschaft fehlt."

(PE 2207)

<sup>bann-</sup>  
"Obersturmfuehrer MAURER sagte zu, die Zahl der Haeftlinge in Kuerze auf 4000 evtl. 4 500 Haeftlinge zu erhoehen. Der Einsatz dieser Mengen kann, mit Ruecksicht auf die geringe Postenzahl, nur bei Beschaeftigung hinter Werkzaun und Umstellung des Gelaendes erfolgen. Es wurde daher beschlossen, den gesamten Syntheseteil einzuzaunen."

(PE 2207)

(171) Schliesslich kann bemerkt werden, dass die SS die Errichtung des Zaunes vorgeschlagen hat, um die Anzahl

der SS herabzusetzen. (P.E.2128)

(172) Schliesslich soll noch eine Farben Behauptung erwaeht werden, wonach die Farben das Schlagen der Insassen und Fremdarbeiter verbot. Man wird sich entsinnen, dass die Verteidigung eine Reihe von eidesstattlichen Erklaerungen vorgelegt hat, die darauf hinweisen, dass die Bauleitung, besonders DUERRFELD, durch Bestimmungen, Anweisungen, Befehle, Rundschreiben usw. jegliches Schlagen der Insassen und auslaendischen Arbeiter verboten hat. Das Gericht wird auf die Tatsache hingewiesen, dass, obwohl die Verteidigung immer wieder behauptete, dass die Bauleitung das Schlagen der Insassen verbot, nicht eine monatliche Baukonferenz und kein einziger Auschwitz-Wochenbericht diese Behauptung der Verteidigung stuetzt. Ueberdies, obwohl die verschiedenen Unter-Baufirmen angeblich alle informiert und durch Rundschreiben in Kenntnis gesetzt wurden, dass sie die Insassen und Auslandsarbeiter nicht schlagen duerfen - obwohl etwa 200 verschiedene Bau-firmen fuer Farben arbeiteten -

wurde dem Gericht nicht ein Anschlag, nicht eine Bestimmung, nicht ein Erlass, mit anderen Worten nicht ein damaliges Dokument vorgelegt, aus dem hervorgeht, dass die Farben-Bauleitung tatsaechlich das Schlagen der Insassen und auslaendischen Arbeiter verbot..

(173) Natuerlich gibt es Dokumente aus jener Zeit, die das Schlagen der Insassen und auslaendischen Arbeiter betreffen. Es ist z.B. klar, dass die SS das Schlagen von Insassen verbietet (DUERR.Exh. 375; P.E.1986; P.E.1553; P.E.1555). Aus Beweismaterial aus jener Zeit ist auch klar, dass das Arbeitsamt (SAUCKEL) das Schlagen von Auslandsarbeitern verbietet. (P.E.1987). Es sind sogar Dokumente aus jener Zeit vorhanden aus denen hervorgeht, dass sich die Farben-Bauleitung in Auschwitz in ihren Befugnissen beschraenkt fuehlte und sich ueber die Tatsache beklagte, sie habe keine Disziplinalgewalt und sei durch die SS und SAUCKEL's Amt daran gehindert, in geeigneten Faellen zuzuschlagen. (P.E.1987 ). Jedoch in Bezug auf Farben's Pruegelverbot zeigt das Protokoll in diesem Falle, soweit damalige Dokumente in Betracht kommen, nur leere Stellen.

C. Die Lieferung von Giftgas fuer Massenvernichtung.

(174) In Teil III des Preliminary Memorandum Brief hatten wir bedeutsame Teile des Beweismaterials betrachtet soweit es sich auf die Beschuldigungen unter Punkt III B der Anklageschrift bezieht, naemlich dass die I.G. Giftgas herstellte und an Dienststellen der SS lieferte; dieses Gas wurde in ganz Europa zur Vernichtung ver- sklavter Personen in Konzentrationslagern benutzt. Es wurde besonders untersucht in welchem Ausmass diese Angeklagten auf Grund des Beweismaterials an derartigen Verbrechen im Sinne des Kontrollrats- gesetzes Nr. 10 teilgenommen haben. Es wurde die Schlussfolgerung gezogen, dass auf Grund des Beweismaterials folgende Tatsachen ueber jeden zulaessigen Zweifel bewiesen sind:

(a) Mehrere Millionen von Menschenwesen sind in Konzentrations- lagern durch Vergasung mit Cyclon B Gas vernichtet worden.

(b) Die Angeklagten haben infolge ihrer Zugehoerigkeit zur I.G. und zur Degesch und infolge ihrer Beteiligung bei der Herstellung und Lieferung des Cyclon B Gases an diesem Verbrechen teil.

(c) Die Angeklagten haben gewusst, dass Menschenleben durch Vergasung in Konzentrationslagern vernichtet wurden.

(d) Die Angeklagten waren entweder darueber unterrichtet, dass das Cyclon B Gas, welches sie herstellten und lieferten zur Aus- fuehrung dieses Programmes der Massenvernichtung verwendet wurde, oder sie "schlossen bewusst ihre Augen vor diesen Geschehnissen".

(175) Das Beweismaterial, welches die Anklagebehoerde waehrend der Gesamtdarstellung ihres Standpunktes zur Bekraeftigung des ge- schilderten Tatsachenbefundes vorgelegt hat, ist in Teil III des Preliminary Memorandum Brief zusammengefasst. Im Laufe des Vortrages der Verteidigung ist weiteres Material vorgelegt worden, welches diese Schlussfolgerung bekraeftigt und unterstuetzt. Bevor wir darangehen, einen Teil dieses Beweismaterials zu zergliedern, sollen



die Gruende ausfuehrlicher besprochen werden, aus denen heraus auf Grund dieser Tatsachen die Angeklagten fuer schuldig befunden worden muessen, an Kriegsverbrechen und Verbrechen gegen die Menschlichkeit im Sinne des Kontrollratsgesetzes Nr. 10 beteiligt gewesen zu sein.

(176) Es duerfte zweckdienlich sein, die Tatsachen dieses Falles mit den Tatsachen zu vergleichen, die dem Bundesgericht der Vereinigten Staaten im Jahre 1942 im Prozess der Direct Sales Co. gegen die Vereinigten Staaten, 319 U.S. 703, vorgelegt wurden. In dem Prozess der Direct Sales Co. gegen die Vereinigten Staaten wurden die Angeklagten wegen einer Verschwörung

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gegen das Harrison Narcotic Gesetz verurteilt. (Vergleiche Teil V des Preliminary Memorandum Brief). Gemäss dem Gesetz der Vereinigten Staaten wegen Verschwörung (Abschnitt 5440 des abgeordneten Gesetzes) ist es ein Verbrechen "wenn zwei oder mehr Personen sich zusammen tun \*\*\* um ein Verbrechen gegen die Vereinigten Staaten zu begehen". Das Harrison Narcotic Gesetz besagt unter anderem: "Das Gesetz verbietet jedermann, sich auf Grund der genannten Anforderungsformulare eines der aufgeführten Gifte zu anderen Zwecken als zum Gebrauch, Verkauf oder Verteilung in Ausübung eines gesetzlichen Handels oder in der gesetzlichen Ausübung seines Berufes zu beschaffen". Das Bundesgericht der Vereinigten Staaten hat folgendes gesagt:

"Der springende Punkt ist, dass die Direct Sales Co. Dr. TATE Morphinum Sulphat in solchen Mengen, so oft und so lange verkauft hat, dass es ihr bekannt gewesen sein muss, dass er die erhaltenen Mengen nicht in gesetzlicher Ausübung seines Berufes verbrauchen konnte. Daher hat sie das Gift ungesetzlich vertrieben. Mehr noch, sie hat TATE tätigen Ansporn zu seinen Käufen gegeben".

Bei der Erörterung des Unterschiedes zwischen der Sachlage im Fall der Direct Sales Co. und einem früheren Fall (Vereinigte Staaten gegen Falcons) hat das Bundesgericht unterschieden zwischen der Lieferung von Verbrauchsgütern des "freien Handels" wie Zucker, Konserven und so weiter und von Verbrauchsgütern, "deren gesetzmässige Verwendung nur unter Einhaltung strenger Bestimmungen möglich ist". Das Bundesgericht sagte: "es besteht derselbe Unterschied wie zwischen Spielzeugpistolen und Jagdflinten und Maschinengewehren. Alle Handelsgüter können ungesetzlich verwendet werden aber nicht allen wohnt die gleiche Eignung zu schädlicher und ungesetzlicher Verwendung inne". Das Bundesgericht schloss mit folgenden Worten:

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\*Wenn das Beweismaterial ein derartiges System enthüllt, das darauf abzielt, einen Arzt, der ein ungesetzliches Geschäft betreibt, in längerer Zusammenarbeit mit den Vorräten zu versehen, welche er fuer sein gesetzwidriges Unternehmen benötigt, lässt das Gesetz unbedingt den Schluss zu, dass der Lieferant von diesem Unternehmen nicht nur Kenntnis hat und es stillschweigend billigt, sondern auch bei der Ausführung hilfreiche Hand leistet. Von einfacher Kenntnis bis zu böser Absicht und Zustimmung ist kein weiter Schritt\*.

(177) Wenn auch dieser Prozess vor dem Bundesgericht der Vereinigten Staaten hier nicht verbindlich ist, so ist doch die Begründung und die Theorie dieses Gerichtshofes ausserordentlich einleuchtend. Wenn die oben geschilderten Tatsachenbestände ueber jeden zulaessigen Zweifel hinaus durch das Beweismaterial im Hinblick auf die einzelnen Angeklagten bestaetigt werden, dann muesste nach den Grundsätzen des Bundesgerichtes ein Urteil gefällt werden, welches diese Angeklagten fuer schuldig befindet. Fernerhin muss beachtet werden, dass nicht nur die Theorie des Bundesgerichts hier zutrifft, sondern dass auch die Tatsachen



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schr gleichartig gelagert sind. In diesem Bundesgerichtsfall war die Beklagte, ein Versandgeschäft fuer medizinische Praeparate, ueberfuehrt worden, in der letzten Haelfte des Jahres 1939 dem Arzt einer kleinen Stadt durch die Post Morphinum-Sulphat, ein Narkotikum, in Mengen geliefert zu haben, die zwischen kleinen Betraegen und 5 - 6000 Tabletten im Gewicht eines zehntel Grammes monatlich lagen, was genug fuer rund 400 Doesen taeglich gewesen waere. Alles dies geschah durch Postversand ohne persoenliche Fuehlungnahme zwischen der Lieferfirma und dem Arzt.

(178) Wir unterstellen, dass die im Preliminary Memorandum Brief dargelegten Tatsachen den schluessigen Beweis dafuer liefern, dass die Degesch die von I.G. kontrolliert wurde, dasselbe tat und ebensoviel ueber das Programm der Massenvernichtung wusste wie die Direct Sales Co. im Hinblick auf die Vorgehen des Kleinstadtdoktors gegen die Bestimmungen des Harrison Narcotic Gesetzes. Sowohl die Direct Sales Co. als auch die Degesch belieferten den eigentlichen Taeter "mit den Vorraten fuer sein gesetzwidriges Unternehmen". Im Bundesgerichts-falle war der eigentliche Taeter der Kleinstadtdoktor und das eigent-liche Verbrechen war der gesetzwidrige Vertrieb von Betraeubungs-mitteln. Im vorliegenden Falle war der eigentliche Taeter die SS und das zugrundeliegende Verbrechen ist Mord. In beiden Faellen enthuehlt das Beweismaterial "laengere Zusammenarbeit mit" und Kenntnis von den "gesetzwidrigen Vorhaben" des eigentlichen Taeters.

(179) Die allein zur Debatte stehende Frage kann das Ausmass sein, in dem die Angeklagten fuer die Taten der Degesch verantwortlich sind, von diesen Taten und den damit verbundenen Umständen wussten, oder "berusst ihre Augen davor verschlossen". Es wird unterstellt, dass auf Grund des Beweismaterials alle Angeklagten dieses Prozesses, welche Vorstandsmitglieder der I.G. waren, und besonders die Ange-klagten MANN, HOERLEIN und TURSTER, die dem Verwaltungskomitee oder

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dem Aufsichtsrat der Degesch angehörten, beteiligt gewesen sind und sich ihrer Taten voll bewusst waren.

(180) Das von der Anklagebehörde in ihrer Gesamtdarstellung vorgelegte Material zum Beweis derartiger Taten und des Vollbewusstseins ihrer Bedeutung ist im Preliminary Memorandum Brief zusammenfassend dargelegt. In der Folge soll dasjenige Material näher beleuchtet werden, welches die Verteidigung während ihres Gesamtvortrages vorgebracht hat und welches obige Schlussfolgerung weiter bestatigt.

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Vernichtung mit Cyclon B Gas

(181) Die Tatsache, dass Millionen von Menschenleben tatsaechlich mit von der Dagesch gelieferten Cyclon B Gas vernichtet worden sind, steht ausser Frage. (Preliminary Memorandum Brief; Anklage Exh. 1762, 1811, Prot. Seite 5500, 2599, 2600, 14345).

Beteiligung der Angeklagten

(182) Die Beweismittel haben erwiesen, dass die Angeklagten Hauptschuldige und Teilnehmer bei der Begehung derartiger Verbrechen waren, sie anordneten und unterstuetzten oder ihnen zustimmten und in Plaene und Unternehmungen verwickelt sowie Mitglieder von Organisationen und Gruppen waren, die mit derartigen Verbrechen in Verbindung standen. Diese Beweismittel sind im Preliminary Memorandum Brief zusammengefasst. Nach der Unterbreitung dieses Briefes ist festgestellt worden, dass die Dagesch aktiv bei dem SS Plan zur Herstellung eines besonderen Cyclon B Gases fuer die Vernichtung von Menschenleben beteiligt war und ihn unterstuetzte. Die SS wuenschte, die Beibehaltung der toetlichen Wirkung des Cyclon B Gases ohne den warnenden Geruch, und es war der Geschaeftsleiter der Dagesch, PETERS, der den Rat gab, wie die warnende Beimischung ohne Beeintraehtigung der toetlichen Wirkung des Gases beseitigt werden koennte. (Ankl. Exh. 2087, Transcr. 11035). Zur Herstellung dieses besonderen Cyclon B Gases mussten Massnahmen zur "zeitweiligen Aenderung der Herstellung des Cyclons in den Dessauer Werkstaetten vom normalen Reizcyclon zu nichtreizenden Cyclon getroffen werden". (Ankl. Exh. 2087.) Die Tatsache, dass Cyclon B Gas tatsaechlich ohne Reizmittel an die SS geliefert wurde und an die Konzentrationslager in Oranienburg und Auschwitz zur Verteilung gelangt ist, ist jetzt ueber jeden zulaessigen Zweifel hinaus bewiesen worden. (Ankl. Exhs. 1789, 1791, 1802, 1803, 1804, 1805, 1806, 1807).



Kenntnis der Angeklagten von Vergasungen

(183) Die erdrueckende Beweislast, aus welcher klar hervorgeht, dass die Angeklagten ueber die Tatsache der Vernichtung von menschlichen Wesen in Auschwitz und anderen Konzentrationslagern und von ihrer Toetung durch Gas unterrichtet waren, ist bereits im Preliminary Memorandum Brief aufgezeichnet worden.

Die Glaubwürdigkeit und Wichtigkeit dieses Beweismaterials wurde während der direkten Beweisaufnahme der Verteidigung immer wieder bestätigt. Die besondere Kenntnis, welche diese Angeklagten infolge der Rolle von Farben im Werk Auschwitz der IG hatten, wurde anschaulich von zwei SS-Funktionären geschildert, von denen der eine fuer die Verteidigung, der andere fuer die Anklagebehörde aussagte.

(184) Dr. MÜNCH, Verteidigungszeuge, sagte im direkten Verhoer aus, dass wenn die Aufnahmefähigkeit der Oefen in Birkenau nicht ausreichte, um alle, die vergast worden waren, aufzunehmen, die Leichen auf grossen Scheiterhaufen verbrannt wurden und

"dass man zwar diese Feuer gar nicht sehen konnte, den Geruch aber spueren musste, weil die Verbrennung einer so ungeheuren Anzahl von Leichen einen entsetzlichen Geruch verursachte, der ueberall zu spueren war." (Prot. 14327)

Im Kreuzverhoer sagte der Zeuge aus:

"In Auschwitz und der Umgebung bis nach Kattowitz<sup>\*)</sup> schwirrten Geruechte ueber die Ausrottung von Juden durch Vergasungen und Verbrennungen. ...." (Prot. 14334)

".... in Kattowitz konnte man den Gestank vom Krematorium ebenso intensiv spueren wie in Auschwitz." (Prot. 14335)

In Beantwortung der Frage, ob die in Auschwitz lebenden Zivilpersonen von der Vergasung von Lagerinsassen Kenntnis hatten, erwiderte

Dr. MÜNCH:

"Ja, da kann ich nur wiederholen, was ich zuvor sagte; nach meiner Erfahrung muss angenommen werden, dass das Wissen um die Ausrottungen in Auschwitz zwar allgemein war, jedoch auf dem Geruchswege zustande kam, weil nach meiner Meinung niemand in der Lage war, sich eine tatsächliche Bestätigung, insbesondere ueber die Art, in der diese Ausrottungen vor sich gingen, verschaffen konnte ...." (Prot. 14436)

Als jedoch Dr. MÜNCH ausdruecklich gefragt wurde, ob die 7000 Konzentrationslagerinsassen auf der Baustelle der IG in Auschwitz von den Vergasungen, die in Birkenau stattfanden, Kenntnis haetten, erwiderte Dr.

MÜNCH:

"Alle Insassen, die in Auschwitz waren, wussten davon. Sie hatten vollste Kenntnis davon." (Prot. 14339)

\*) Kattowitz ist mehr als 30 km von Auschwitz entfernt

Der Zeuge MURCH beantwortete andere Fragen der Anklagebehörde in folgender Weise:

F: Nun, Herr Zeuge, ist es nicht eine Tatsache, dass zehntausend von Leuten aus ganz Europa auf dieser Eisenbahn, die direkt bei Ihrem Büro vorbeifährt, nach Birkenau kamen und mitten durch die Stadt Auschwitz nach Birkenau geschickt wurden? Ist das nicht eine Tatsache?

A: Ja, das ist eine Tatsache.

F: Es kamen also während eines Zeitraumes von zwei Jahren mehr als viereinhalb Millionen auf dieser Eisenbahn bei Ihrem Büro direkt durch Auschwitz nach Birkenau. Ist das so?

A: Die Zahl spielt keine Rolle, sofern es sich um ein paar Millionen handelt, aber es waren ja auf jeden Fall Millionen von Leuten, die herkamen.

F: Nun, Herr Zeuge, waren bei dieser Bahn nicht Zivilarbeiter beschäftigt?

A: Ja.

F: Und waren auf der Verladebrücke der Station in Auschwitz nicht polnische Zivilarbeiter beschäftigt?

A: Ja. (Prot. 14335)

(185) Perry BROAD, Zeuge fuer die Anklagebehörde, bekundete im

Rueckverhoer durch die Anklagebehörde:

F: Koennen Sie in kurzen Worten, so weit Ihnen bekannt, angeben, wie weit die Kenntnis von Vergasungen innerhalb des Gelandes des Auschwitzer Konzentrationslagers, in Birkenau, in der Stadt Auschwitz, bei der Buna, usw. in der dortigen Gegend vorherrschte oder ganz allgemein war?

A: Innerhalb des Lagers war die Kenntnis von den Massennorden durch Giftgas allgemein. Jeder einzelne von den 100.000 Gefangenen, die in den Jahren 1943 und 1944 im Lager waren, wusste, dass diese Massnahmen durchgefuehrt wurden und jeder einzelne von den drei- bis funftausend SS-Leuten wusste, dass diese Vergasungen zur Durchfuehrung gelangten.

Weiter: ist es zweifellos wahr, dass die 2000 Zivilarbeiter genau informiert waren - nicht nur ueber die Tatsache, dass Massennorde mit Giftgas durchgefuehrt wurden, sondern auch ueber Einzelheiten. Das heisst, ueber Ziffern und die Herkunft der Menschentransporte. Es ist selbstverstaendlich, dass diese grosse Anzahl von Personen ihre Kenntnis in der Aussenwelt verbreiteten und ich weiss aus eigener Erfahrung, dass die ganze polnische Bevoelkerung in der Umgebung von Auschwitz und auch die Leute in Auschwitz selbst bis in alle Einzelheiten ueber diese Massnahmen informiert waren.



Die deutsche Bevölkerung war auf dem Gerüchtswege darüber informiert; die Polizeistationen in der Umgebung und alle Polizisten, die vielen Polizisten, die im Laufe der Zeit als Wachmannschaft fuer die Transporte nach Auschwitz kamen, konnten sich ebenfalls selbst von dem genauen Zutreffen dieser Tatsachen ueberzeugen. Dasselbe gilt vom Reichsbahnpersonal und von den zahlreichen Angehoerigen von Wehrmachtsseinheiten, welche teils im Lager selbst und teils in der naechsten Umgebung fuer verschiedene Zwecke stationiert waren.

In Kattowitz und in anderen polnischen Staedten hatte ich den Eindruck, dass die Mehrzahl der Bevoelkerung von der Vernichtung von Menschen durch Gas in Auschwitz Kenntnis hatte. In Berlin konnte ich mich gelegentlich einer kurzen Reise ebenfalls ueberzeugen, und zwar zu Ende des Jahres 1943, dass die Zahl der Personen, die auf dem Geruechtswege von diesen Massenmorden wusste, feststehen und sehr gross war.

Die Geheimhaltungsbestimmungen, welche die Todesstrafe vorsahen, bestanden nur auf dem Papier. Mir ist kein Fall bekannt, wo tatsaechlich ein Todesurteil wegen Bruches der Geheimhaltungsbestimmungen verhaengt worden waere. Angesichts der grossen Anzahl von Leuten, die im Lager arbeiteten, war es ganz und gar unmoeglich, diesen Massenmord an Menschen geheimzuhalten." (Prot. 5506-7)

Im Rueckverhoer durch die Verteidigung legte Perry BROAD das folgende Zeugnis ab:

F: Herr Zeuge, Sie beschrieben kuerzlich, welche Strafen ueber eine Person verhaengt wurden, die bei der Weitergabe dieser geheimen Vorgaenge ertappt wurde. Sie liessen uns also Ihre Meinung hinsichtlich des Ausmasses wissen, bis zu welchem diese Geruechte allgemein bekannt waren. Waere es richtig, wenn ich sagen wuerde, dass, wenn diese Geruechte verbreitet wurden, dies nur fluesternd und unter sehr sorgfaeltiger Auswahl der Leute geschah, an die man diese Geruechte weitergab? Mit anderen Worten: jeder, der etwas davon wusste, wurde sich die Leute, an die er es weitergab, sehr genau angesehen haben?

A: Ganz und gar nicht. Die Fremdarbeiter, die in Auschwitz waren und diese Dinge sahen, pflegten anderen Auslaendern ohne jegliche Zurueckhaltung davon zu erzaehlen, und sogar deutsche Zivilpersonen sprachen ganz offen davon wie von etwas Selbstverstaendlichem. Es ist ganz natuerlich, dass man solche Gespraechе nicht in Gegenwart irgendeines SS-Offiziers oder Parteifunktionaers fuehrte, aber wenn Zivilisten unter sich waren, und zwar sogar auf der Eisenbahn, fanden solche Gespraechе ganz offen und frei statt ...." (Prot. 5508)

.....

F: Zunaechst sagten Sie, dass die Leute im allgemeinen in der Gegenwart von SS-Offizieren und Parteifunktionaeren nicht ueber diese Dinge zu sprechen pflegten. (Prot. 5508)

A: Ja, das habe ich gesagt.

.....

F: "... Ich frage Sie, ob irgendjemand ~~an~~ die Umgebung dieser Parteifunktionäre herangestiegen wäre.

A: Dazu war niemand nötig, weil die Parteifunktionäre in Auschwitz drei Jahre lang in dem atembeklemmenden Gestank verbrennenden menschlichen Fleisches lebten, was vollkommen ausreichend war, um ihnen klar zu zeigen, dass in Auschwitz Massenmord durchgeführt wurde.

F: Wissen Sie, dass die SS als Grund für diese Verbrennungen, die sie nicht geheimhalten konnte, angab, dass dieselben durch die in Auschwitz ständig herrschenden Seuchen veranlasst wurden und dass einige Leute starben, denen sie keine Sorge zuwenden konnte, und dass daher die Leichen innerhalb des Konzentrationslagers verbrannt wurden?

A: Es wurde versucht, diesen unwahrscheinlich klingenden Grund anzuführen, aber ich weiss ebenso gut, dass nur sehr wenige Leute diese ganz unwahrscheinlich klingende Begründung glaubten." (Prot. 5509/10)

(186) Direktor STRUSS, ständiger Sekretär der TEU-Versammlung, erhielt seine Information über die Verbrennung von Frauen und Männern in Auschwitz im Zug auf der Rückreise von seinem ersten Besuch in Auschwitz. Auf Befragen durch die Anklagebehörde in einem Verhör, was er damals (Februar 1942) über Grausamkeiten in Auschwitz gehört habe, antwortete er: (Engl. S.1876, siehe Prot. 13566, 13615)

A: "In meinem Abteil war ein Mann, ein Arbeiter, und er erzählte den anderen Männern und Frauen im Abteil in lautem Ton, dass in dem Auschwitzer Konzentrationslager Menschen in einem Krematorium verbrannt wurden (er benutzte das Wort Krematorium nicht) und in grosser Anzahl. Wenn nicht genug Platz war, die Leichen zu verbrennen, wurden grosse Scheiterhaufen gemacht und die Leichen wurden in denen verbrannt, und dann war die ganze Luft in dem Werk Auschwitz mit dem Geruch des Todes angefüllt. Ich war sehr davon beeindruckt und sprang auf und sagte, dass er nicht solche Lügen erzählen sollte.

F: Erlauben Sie mir eine Unterbrechung, damit ich sehen kann, ob ich es richtig verstanden habe. In diesem Zug, in Ihrem Abteil, sagte ein Arbeiter, dass Menschen in Auschwitz verbrannt wurden und dass sie draussen auf Scheiterhaufen verbrannt würden.

A: Nein, wenn nicht genug Platz wäre, wurden sie manchmal auf Scheiterhaufen verbrannt.

F: Und dass der Geruch brennenden Fleisches im Bunker bekannt war. Sie verstanden, dass er das sagte? Schoen, fahren Sie fort. Was taten Sie, als Sie das hörten?

A: Ich sprang auf und sagte: 'Das sind Lügen' und er sagte: 'Nein, das sind keine Lügen, es sind 10.000 Leute in Auschwitz oder noch mehr, und die wissen es alle.'

F: Der Arbeiter erzählte Ihnen, dass 10.000 Leute in Auschwitz arbeiteten, und dass sie alle ueber diese Zustände Bescheid wussten?

A: Das sagte er.

F: Er sagte das zu allen und Sie hoerten es und er sagte das in Beantwortung Ihres Protestes?

A: Ja.

Die Unterhaltung in dem Zug wurde offen gefuehrt, sodass alle Anwesenden ihr zuhoeren konnten:

F: Sie sagen, dass Anfang 1942, als Sie die Geschichte ueber das Konzentrationslager Auschwitz hoerten, ueber die Verbrennung und die Grausamkeiten, die dort vor sich gingen, hoerten andere Leute in Deutschland auch davon? .....  
Sie hoerten das in offener Diskussion waehrend der Eisenbahnfahrt?

A: Ja, er erzählte es allen Anwesenden. Es waren 10 oder 15 in dem Abteil und die hoerten es alle.

STRUSS wurde sodann gefragt, ob aus Auschwitz zurueckkehrende Leute von diesen Vorkommnissen wussten:

F: Leugneten die Leute, dass solche Zustände bestanden?

A: Nein.

F: Sie leugneten es nicht?

A: Nein, sie leugneten es nicht und sie stimmten nicht zu.

F: Sie wichen einer direkten Frage aus?

A: Ja.

F: Waren Sie ueberzeugt, als Sie diese Antworten erhielten?

A: Nein, ich war nicht ueberzeugt.

Die in Auschwitz begangenen Grausamkeiten wurden STRUSS durch den obergeringenieur der IG-Farben, HEIDERICK, bestaetigt:

F: Im Sommer 1943 besuchten Sie Auschwitz wieder. Fiel Ihnen auch dann nicht ein, dass Sie es ueberpruefen sollten?

A: Nein, ich frage in Auschwitz einen verantwortlichen Herrn, den Oberingenieur HEIDERICK.

F: Was fragten Sie ihn?

A: Er sagte, es sei wahr. Ich kann Ihnen von Frankfurt das genaue Datum geben.

.....



F: Sie haben dem Oberingenieur mitgeteilt, was der Arbeiter im Zuge gesagt hat, und der Oberingenieur sagte, dass das, was der Arbeiter gesagt hat, wahr sei?

A: Ja.

STRUSS bekundete sodann, dass er im Jahre 1943 wusste, dass Menschen mit Gas getötet wurden, ehe sie verbrannt wurden und dass er dies

AMEROS und ter MEER mitgeteilt hätte:

F: Der Oberingenieur der Buna-Werke, mit dem Sie im Jahre 1943 sprachen, sagte er Ihnen ausdrücklich, dass Menschen in Auschwitz verbrannt wurden?

A: Ja, ich glaube er sagte mir auch, dass sie vor der Verbrennung verhaftet wurden. Ich wusste das nicht, bis HEYDEBRÖCK es mir sagte.

F: Und im Sommer 1943 wussten Sie, dass Menschen verbrannt und verhaftet wurden?

A: Ja.

F: Und soviel Sie sich erinnern, erzählten Sie das AMEROS und Ter MEER?

A: Ja.

Wie sicher STRUSS es wusste, geht aus folgender Aussage hervor:

F: Herr Dr. STRUSS, lautete Ihre Aussage folgendermaßen: Nachdem ich mit HEYDEBRÖCK gesprochen hatte, war ich überzeugt, dass die Lage im Konzentrationslager Auschwitz so schlecht war, wie sie es mir erzählt haben, aber ich hoffte, es wäre nicht wahr. Ist das eine richtige Wiedergabe Ihrer Aussage?

A: Ja, das ist eine richtige Wiedergabe meiner Aussage. Ich hatte nur 1% Hoffnung, dass es nicht wahr sei.

Eine Woche nach diesem Verhör gab STRUSS eine eidesstattliche Erklärung in deutscher Sprache ab, worin er bei näherer Überlegung die bei seinem Verhör gegebenen Antworten im wesentlichen niederlegte.

(Engl. Seite 2343, Prot. 13613-13614)

(187) Bei der Besprechung der bei diesen Angeklagten vorhandenen Kenntnis des Ausrottungsprogrammes führten wir im Schriftsatz aus, dass keinerlei Andeutung Beachtung verdiene, die darauf hinausläuft, die verantwortlichen Funktionäre von IG-Farben mit ihren über die ganze Welt verzweigten, Propaganda, Nachrichtendienst und Spionage betreibenden Niederlassungen hätten nicht gewusst, dass in ihrem eigenen Hinterhaus ein viele Millionen Menschen umfassendes und von der ganzen Aussenwelt öffentlich angeprangertes Ausrottungsprogramm durchgeführt wurde.

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In den Jahren 1942, 1943, und 1944 besuchte der Angeklagte MAHR europäische Länder, einschliesslich der Schweiz und der Balkanländer. Andere Angeklagte, die während des Krieges Auslandsreisen unternahmen, waren TER MEER, von SCHNITZLER, ILGNER, HAEFLIGER, SCHMITZ und von KRIEGER. Der Entlastungszeuge MUENCH hat vor Gericht ausgesagt, er habe bei seiner Kommandierung nach Auschwitz im September 1943 "aus Sendungen des Schweizer Rundfunks bereits von Vernichtungslagern, besonders fuer Juden, gehoert." (Tr.S.14322-14324).

(188) Bezuglich der Veroeffentlichungen von STREICHER hat das IMT auszugsweise folgendes gesagt (I.K.T.Urteil, Seite 303):

" Im November 1943 zitierte STREICHER wortlich einen Artikel des "Israelitischen Wochenblattes" (Schweiz), der erklarte, dass die Juden praktisch aus Europa verschwunden seien, und bemerkte hierzu: "Dies ist keine juedische Luege". Bezugnehmend auf einen Artikel der Londoner Times ueber die auf Vernichtung abzielenden Greuel, sagte STREICHER, HITLER habe warnend erklart, der zweite Weltkrieg wuerde zur Vernichtung des Judentums fuehren. Im Januar 1943 schrieb und veroeffentlichte er einen Artikel, in dem er erklarte, HITLERS Prophezeiung sei im Begriff erfuellt zu werden, das Weltjudentum ginge seiner Vernichtung entgegen, und es sei wundervoll zu wissen, dass HITLER die Welt von den juedischen Peinigern befreie."

Bezuglich STREICHERS Zeitschrift "Der Stuermer", welche, nach Angabe des IMT, im Jahre 1935 eine Verbreitung von 600.000 Exemplaren hatte, hat der Zeuge HOERLEIN im Kreuzverhoer erklart, er haette nicht gewusst, dass "Der Stuermer" nicht eine offizielle Nazi-Zeitschrift gewesen sei. (Tr.S.6347).

" Nein, Herr Anklagevortrater, das habe ich nicht gewusst, aber ich wusste, dass diese Zeitschrift eine Deutsche Auflage von einer halben Million besass und von den Kreisleitern und Ortsgruppenleitern offentlig in Glaskasten ausgeharrt wurde. Mag das nun eine offizielle Veroeffentlichung gewesen sein oder nicht, es geschah von Seiten der Partei und war fuer das Publikum bestimmt."

WISSEN VON DER VERWENDUNG DES ZYKLON B GASES ZU VERNICHTUNGSZWECKEN.

(189) Im Preliminary Memorandum Brief wurden gewisse Beweismittel erortert, welche die Tatsache enthuelten, dass die Angeklagten wussten, es was das Gas, welches sie fabrizierten, Zyklon B Gas, welches bei der Verwirklichung des Vernichtungsprogramms zur Verwendung kam. In Ergaenzung des dort zitierten Beweismaterials

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hinsichtlich der Beziehungen der Angeklagten, hauptsächlich der Angeklagten MANN, WURSTER UND HOERLEIN, zur Degesch-Leitung, und hinsichtlich der fuer diese Angeklagten bestehenden Moeglichkeit, sich Zugang zu Informationen ueber die Taetigkeit der Degesch zu verschaffen, sind noch die folgenden ergaenzenden Tatsachen bei der direkten Beweisaufnahme der Verteidigung zu Tage getreten:

(a) Abgesehen vom Empfang von Geschäftsberichten der Leitung, nahm der Angeklagte MANN auch an den sogenannten Vor-Bilanzsitzungen teil. Der Angeklagte MANN hat zugegeben, dass derartige Sitzungen vorgekommen sind. "Schliesslich waren wir Teilhaber und wollten wissen, was mit unseren Einlagen geschah" (Tr.S.10616). Eine Probe dessen, was geschah, ist in der Niederschrift ueber die Vorbilanzsitzung von 10. Juni 1941 in Leverkusen enthalten, wo es heisst: "Direktor SCHLOSSER legte zwei Geschäftsberichte der Leitung ueber das vergangene Jahr vor." (Ankl.Exh.2100).

(b) Ausser den Sitzungen, welche mehr die kaufmaennische Seite des Degeschgeschaeftes betrafen, fanden auch Konferenzen der Techniker der interessierten Firmen (Degussa, Degesch, Testa, IG Farben, Goldschmidt und den Werken Dessau und Kolin statt). In einem Schreiben des IG Vertreters Karl von HEIDER (Ankl.Exh.2101) wurde der Angeklagte MANN ueber eine in Hamburg abgehaltene Tagung, bei der die I.G. fuernf Vertreter hatte, unterrichtet. Dieses Schreiben zeigt, mit welcher Sorgfalt der Angeklagte MANN die gesamte Entwicklung ueberwachte und welches Interesse er besonders fuer die Informationen hatte, welche der Degussa zuegingen. Es wird ihm berichtet

"dass keinerlei kaufmaennische Angelegenheit besprochen worden ist";  
und

"Herr SCHLOSSER hat dieses Mal ... nur deshalb teilgenommen, weil Dr.GASSNER erkrankte".

(c) Angelegenheiten der Degesch wurden auch auf der "Direktortagung" der Bayergesellschaft ercoertert, welche unter dem Vorsitz des Angeklagten MANN stattfand. Die Tagesordnung einer Leverkusentagung am 24. Juli 1942 (Ankl.Exh.2102) zeigt, dass Angelegenheiten der Degesch ercoertert wurden. Dort steht, dass die Entscheidung der Anteilbesitzer in diesem Jahr schriftlich erfolgen wird, aber dass die Tagung



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bei den "Chemiewerken"

"Gelegenheit zu einer Zusammenkunft und Aussprache mit den Degesch-Herren bieten wird, die wir anregen werden."

Auch aus Dokument Ankl.Exh.2103, einem Schreiben SCHLOSSER an den Angeklagten MANN, ersieht man, dass ausser den offiziellen Tagungen auch interne Degeschkonferenzen stattfanden. SCHLOSSER schreibt an MANN:

"Ich wurde vorschlagen, dass wir auch in diesem Jahr von einer offiziellen Sitzung absehen. Das hindert natuerlich nicht, dass wir uns am Freitag, dem 4. September intern noch einmal zu einer Degesch-Besprechung zusammensetzen."

(d) Dieselben Tatsachen bilden den Inhalt eines Schreibens von MANN an SCHLOSSER (Ankl.Exh.2104).

"Es wurde also keine allgemeine Sitzung der Gesellschaft sein, sondern lediglich eine Zusammenkunft der Herren unserer beiden Firmen mit den Herren der Degesch, da sicherlich auf beiden Seiten das Beduerfnis vorliegen duerfte, die Ansichten ueber die aktuellen Fragen auszutauschen."

(e) Anstelle einer Aufsichtsratsitzung wurde von der Degesch haeufig eine Teilhabertagung einberufen. (Ankl.Exh.2105). Bemerkenswert ist an dieser Stelle, dass die Degesch die Tatsache betonte, die letzte Verwaltungsratsitzung habe im Jahre 1940 stattgefunden und sich mit dem Geschaeftsjahr von 1939 befasst. (Tr.S.10473). Aus diesem Grunde ist es erforderlich, darauf hinzuweisen, dass es anstelle dieser formellen Verwaltungsratsitzung eine erhebliche Anzahl von anderen Tagungen gab, auf denen die an der Degesch interessierten Herren die Degesch-Angelegenheiten ausfuehrlich besprachen.

(f) Der Angeklagte MANN interessierte sich sogar fuer die sich alle Monate verschiebenden Umsatzziffern. (Ankl.Exh.2106).

"Aus den mir vorgelegten Umsatzzahlen habe ich gern ersieht, dass der in den ersten Monaten dieses Jahres eingetretene Umsatz-Rueckgang durch die gesteigerten Umsatze der letzten Monate nicht nur wieder ausgeglichen, sondern eine Gesamt-Steigerung erzielt wurde."

Bei seiner direkten Befragung hat MANN behauptet, die monatlichen Umsatzberichte der Degesch nicht gelesen zu haben. (Tr.10472).

Im Kreuzverhoer wurde ihm Ankl.Exh.2107 vorgehalten und er musste zugeben, diesen einzelnen Monatsbericht abgezeichnet zu haben.

(Tr.10624)

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(g) Statistische Zusammenstellungen, welche von der Sonderabteilung F in Leverkusen verfasst wurden und die Entwicklung der Einnahme- und Ausgabe-Konten fuer die verschiedenen Degesch-Erzeugnisse zeigen, waren dem Angeklagten MAHN jederzeit zuganglich. (Ankl.Exh.2109).

(h) Der Angeklagte hielt sich sogar mitunter ueber einzelne Entwerfungen der Firma auf dem laufenden. (Ankl.Exh.2108).

(i) Die Verteidigung hat kein einziges Dokument aus jener Zeit vorgelegt, das beweisen koennte, es habe tatsaechlich "eine Vereinbarung bestanden, laut welcher die Degussa zur unmittelbaren Beratung und Kontrolle der Degesch-Geschaeftsleitung auch fuer die Anteile der IG ermachtigt wurde." (Tr.10526).

Es ist kein Dokument aus jener Zeit vorgelegt worden zum Beweis der von dem Angeklagten MAHN bei seinem direkten Verhoer gemachten Behauptung:

"Es gab eine besondere Abmachung des Inhalts, dass die Geschaeftsleitung der Degesch, welche bis dahin stets von der Scheideanstalt wahrgenommen worden war, bei dieser verbleiben sollte, weshalb meine Ernennung zum Geschaeftsleiter ueberhaupt nicht zum tragen kam." (Tr.10468).

(190) Der Hauptgeschaeftsfuehrer der Degesch, D.PETERS, wusste zugegebenermassen, das von der Degesch hergestellte Zyklon B Gas werde von der SS zur Toetung von Menschen benutzt. Besonders war er darueber unterrichtet, dass die Opfer nicht unbedingt verurteilte Verbrecher oder auch nur unheilbare Kranke sein mussten, sondern dass auch "Menschen geringeren Wertes" darunter fielen. (Ankl.Exh.2087, Tr.S.10544). Bei der Befragung durch seinen Anwalt, was unter "Menschen niederen Wertes" zu verstehen sei, gab Dr.PETERS zur Antwort: "Dies war eine von mir uebersahene ungenaue Ausdrucksweise". (Tr.S.10635). In diesem Zusammenhang ist der Wortlaut eines im Juli 1942 von einem IG-Angestellten in Auschwitz an einen Direktor der I.G. in Frankfurt geschriebenen Briefes interessant, in dem es auszugsweise heisst: "Das einzige, was dieses schmutzige Volk davon abhaelt, sich aufzulehnen, ist die im Hintergrund (Konzentrationslager) stehende bewaffnete Macht. Sie koennen sich vorstellen, dass die juedische Rasse hierbei eine besondere Rolle spielt. Die Hungerrationen und die Behandlung dieser Art Menschen stimmt mit unseren Endzielen ueberein. Was sie angeht, so ist bestimmt niemals eine Gewichtszunahme zu verzeichnen gewesen.

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Dass die Kugeln beim leisesten Versuch einer "Luftveraenderung" zu pfeifen beginnen, ist ebenso gewiss wie die Tatsache, dass viele bereits als Folge von "Sonnenstich" verschwunden sind." (Ankl.Exh.149).

(191) Wie oben bemerkt, stellte die Degisch besonders fuer die SS Zyklon B Gas ohne den warnenden Zusatz zur Vernichtung von Menschen her. (Ankl.Exh.2087). Die folgenden Tatsachen sind ebenfalls bemerkenswert, weil sie fuer die Kenntnis der Angeklagten, besonders der Herren MANN, HOERLEIN und WURSTER, von Bedeutung sind.

(a) Der Verkauf von Zyklon B Gas erreichte einen neuen Hohepunkt zu einer Zeit, als der Verkauf aller anderen von der Degesch vertriebenen Gase absank, und dies zu einer Zeit, als das Vernichtungsprogramm beschleunigt wurde. (Ankl.Exh.10502, 10626, 10473).

(b) 90 % alles an Konzentrationslager verkauften Zyklon B Gases gingen an das Konzentrationslager Auschwitz. (Tr.A.10549).

(c) Dieses Gas, das als toetlich bekannt war (Ankl.Exh.1795, 1798, Tr.S.12875) und den schaeerfsten Regierungsbestimmungen unterlag (Ankl.Exh.1791, 1792, 1793, 1796, 1799), wurde ganz offen und in grossen Mengen ohne den vom Gesetz vorgeschriebenen Reizstoff geliefert. Die Versendung von Zyklon B Gas ohne die warnende Bezeichnung verletzte die scharfen Versandbestimmungen bei der Verwendung der oeffentlichen Befoerderungsmittel. (Tr.S.10498).

(d) Bereits im November 1941 war es bekannt, dass das Kz in Auschwitz in grossem Umfange Bestellungen von Zyklon B Gas gemacht hatte. (Ankl.Exh.2084). Und im Dezember 1941 wurde der Degesch berichtet "der Bau der Entlausungsanstalt hat noch nicht begonnen, und mir ist nicht bekannt, zu welchen Zwecken das Kz Auschwitz 500 Kilo Zyklon in 200 Gramm Behaeltern benoetigt." (Ankl.Exh.2085).

(192) Wie bereits in Abschnitt B dieses Teiles IV auseinander-gesetzt, arbeitete die I.G. in Auschwitz eng mit dem Hauptlager zusammen. Durch Ausnutzung der der I.G. zu Gebote stehenden Moeglichkeiten der Materialbeschaffung, wie Eisen (und ebenfalls durch Ausnutzung der Stellung Kraeue in der Regierung), unterstuetzte die I.G. das Hauptlager bei der Erweiterung seiner Anlagen. So sehen wir, dass die I.G. dem Hauptlager



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Eisen und anderes Material zur Erweiterung seiner Anlagen, Giftgas zur Vernichtung der Haeftlinge und Methanol zur Verbrennung der Leichen lieferte. Ihrerseits wurde die I.G. staendig mit "frischen Haeftlingen" versorgt; arbeitsunfaehige Haeftlinge wurden ihr abgenommen (und vergast), und, wie wir gesehen haben, erhielt die I.G. sogar ihren Anteil der von solchen Haeftlingen getragenen Bekleidung. Angesichts dieser engen Zusammenarbeit zwischen der I.G. und der SS, welche der Angeklagte AMEROS "unsere neue Freundschaft mit der SS" nennt, ist es undenkbar, dass die verantwortlichen Beamten der I.G. nicht gewusst haetten, dass Zyklon B Gas, welches von ihrer Firma Degesch offen und genau gezeichnet auf bei der I.G. Auschwitz vorbeifuehrenden (und Material fuer die I.G. in Auschwitz befoerdernden) Bahnlinien versandt wurde, wuerde zur Vernichtung derselben Haeftlinge verwendet, die von ihr als arbeitsunfaehig bezeichnet und abgeschoben worden waren.

TEIL IV (Fortsetzung)

D. Teilnahme an verbrecherischen medizinischen Experimenten

(193) Die Beweise dafür, dass die Angeklagten HOERLEIN, LAUTEN-SCHLAGER und MANN als Haupt- und Nebentäter an Handlungen beteiligt waren, diese anordneten, begünstigten und ihnen zustimmten, oder mit Plänen und Unternehmungen in Verbindung standen, die die Durchführung von medizinischen Experimenten an Menschen ohne deren Zustimmung zum Gegenstande hatten, sind in dem Preliminary Memorandum Brief zusammengefasst. Der Preliminary Memorandum Brief umfasst das seitens der Anklagevertretung in der direkten Beweisaufnahme eingebrachte Beweismaterial hinsichtlich dreier Hauptkategorien verbrecherischer Experimente:

- (a) jene im Konzentrationslager Buchenwald durchgeführten, um die Wirksamkeit der Farben-Fleckfieber-Impfstoffe zu erproben;
- (b) jene im Konzentrationslager Buchenwald durchgeführten, um die Wirksamkeit der Farben chemo-therapeutischen Erzeugnisse - Akridin "3582", Rutecol und McEvler Blau - in der Behandlung von Fleckfieber zu erproben;
- (c) jene im Konzentrationslager Auschwitz durchgeführten, um die Wirksamkeit des Farben chemo-therapeutischen Präparats Akridin "3582" in der Behandlung von Fleckfieber zu erproben.

(194) Das Beweismaterial hat ueber jeden Zweifel hinaus ergeben, dass in allen diesen drei Kategorien versklavte Personen - Konzentrationslagerhäftlinge - ohne deren Zustimmung verbrecherischen medizinischen Experimenten unterworfen wurden, die zu körperlichen Schäden und Todesfällen führten. Das Beweismaterial hat weiterhin in einem jeden vernünftigen Zweifel ausschliessenden Grade erwiesen, dass diese Experimente zur Erprobung der Wirksamkeit von Farben-Präparaten durchgeführt wurden. Aus dem zusätzlichen in Teil VI dieses Schriftsatzes, unter HOERLEIN und MANN zusammengefassten Beweismaterial geht klar hervor, dass diese Experimente nicht allein zur Erprobung der Wirksamkeit der Farben-Erzeugnisse durchgeführt wurden, sondern auch, dass die Angeklagten selbst die Initiative ergriffen, indem sie anregten, dass ihre Erzeugnisse ausprobiert werden sollten.

(195) Teil VI dieses Schriftsatzes (HOERLEIN und MANN) fasst einige dieser zuseetzlichen, seit der Vorlage des Preliminary Memorandum Brief eingebrachten Beweise zusammen, die sich auf die Kenntnis und Teilnahme der Angeklagten an der Durchfuehrung von verbrecherischen medizinischen Experimenten beziehen. Die zuseetzlichen, in Verbindung mit LAUTENSCHLAGERS Verteidigung eingebrachten Beweise sind jedoch nicht in Teil VI unter LAUTENSCHLAGER zusammengefasst, aus dem Grunde, weil in Bezug auf alle drei Kategorien verbrecherischer medizinischer Experimente es entweder LAUTENSCHLAGERS Behring-Werke oder dessen Hoechst-Werk waren, die sich unmittelbar daran beteiligten, indem sie bei der Durchfuehrung von Versuchen mit den in diesen Werken entwickelten Erzeugnissen behilflich waren. Die einzige Ausnahme hierin bezieht sich auf jenen Teil der zweiten Versuchsreihe, der sich mit Methylen Blau befasste. (Bei dieser Versuchsreihe ist es HOERLEIN, der die Initiative ergriff und die Versuche durchfuehren liess, HOERLEIN, der der SS die noetigen Instruktionen bezueglichen der Anwendung der Versuchsstoffe zur Verfuegung stellte, und HOERLEIN, der veranlasste, dass die fuer die Versuche benoetigten Mengen an Methylen Blau dem SS-Arzt Dr. MRUGOWSKY zur Durchfuehrung der Versuche ausgehaendigt wurden. Siehe HOERLEIN, Teil VI). Andererseits hatte LAUTENSCHLAGER zugestandenermassen die volle Autoritaet, Zustaeendigkeit und Verantwortung bei den klinischen Versuchen mit den Erzeugnissen der Behring-Werke und der Hoechst Fabrik. Eine Zusammenfassung des Beweismaterials unter Teil VI, LAUTENSCHLAGER, hatte eine weitgehende Wiederholung der allgemeinen Ausfuehrungen zu dem darin enthaltenen Beweismaterial mit sich gebracht. Ausserdem ist die Eroerterung des auf LAUTENSCHLAGER bezugnehmenden Beweismaterials aus Gruenden der Zweckmaessigkeit in diesem Abschnitt mit aufgenommen, da die aus diesem Material fliessenden Schlussfolgerungen neben LAUTENSCHLAGER auch auf HOERLEIN und MANN zutreffen.



- (e) Im Konzentrationslager Buchenwald durchgeführte  
Experimente zur Erprobung der Wirksamkeit des  
Farben-Fleckfieberimpfstoffes.

(196) Man wird sich erinnern, dass die Anklagevertretung in  
ihrem Preliminary Memorandum Brief und im Verlaufe des Kreuzverhoers  
auf die Bedeutung der Konferenz vom 29. Dezember 1941 hinwies, in  
der die Entscheidung getroffen wurde

Versuche anzustellen, um die vergleichsweise Wirkung des Behring-Impfstoffes, des Cox- (Robert Koch) Impfstoffes und des Weigl-Impfstoffes festzustellen. Die Anklagevertretung legt dar, dass das Beweismaterial in einem jeden vernuenftigen Zweifel ausschliessenden Ausmasse den Nachweis erbringt, dass die in der Konferenz vom 29. Dezember 1941 getroffene Entscheidung fuer die Durchfuehrung dieser vergleichenden Versuche in der Tat eine Entscheidung darueber war, Versuche in einem Konzentrationslager durchzufuehren, wobei die Versuchspersonen kuenstlich infiziert wurden. Die Anklagevertretung legt ferner dar, dass es ueber jeden vernuenftigen Zweifel hinaus klar ist, dass die Teilnehmer der Konferenz sich ueber die Bedeutung ihres Vorhabens vollkommen im klaren waren; und dass die Angeklagten LAUENSCHLAGER, MANN und HOERIEIN, die nicht nur Abschriften des Sitzungsprotokolles erhielten sondern auch, jeder in seinem eigenen Bereiche, prompt daran gingen bei der Ausfuehrung der Beschluesse der Konferenz behilflich zu sein, sich ueber die Art der beabsichtigten Experimente nicht im Zweifel waren.

Die folgenden Tatsachen und Umstaende bezueglich der Konferenz vom 29. Dezember 1941 werden dem Gerichtshof zur Wuerdigung vorgelegt.

(197) Zu Beginn raecht die Anklagevertretung ein, dass man Ende 1941 die Gefahr einer sich ueber Deutschland verbreitenden Fleckfieber-Epidemie befuechtete, und die deutschen Behoerden waren daran interessiert, ein wirksames Mittel zur Beknaempfung einer moeglichen Fleckfieber-Epidemie zu finden. Es muss jedoch bemerkt werden, dass Deutschland einen wirksamen Fleckfieberimpfstoff besass, der als der Weigl-Impfstoff bekannt war und von allen deutschen Wissenschaftlern einschliesslich der Angeklagten der IG-Farben anerkannt wurde. Ungluecklicherweise war der Weigl-Impfstoff von Natur aus fuer die Massenherstellung ungeeignet (Prot. 10844), sodass das Grundproblem darin bestand, einen Impfstoff zu finden, der in Massen hergestellt werden konnte.

(198) In diesem Zusammenhange muss erwachnt werden, dass der Cox- (Robert KOCH) Fleckfieberimpfstoff fuer die Massenherstellung geeignet war, obwohl er gegen Fleckfieber nicht ganz so wirksam war wie der Weigl-Impfstoff. (Prot. 10845). Schliesslich muss bemerkt werden, dass der Behring-Impfstoff der IG-Farben, der

lediglich eine schwächere Abart des Cox-Impfstoffes darstellte, obwohl ebenfalls fuer die Massenherstellung geeignet, von den Autoritaeten nicht als wirksamer Fleckfieberimpfstoff anerkannt war. (Prot. 64/10-1).

(199) Man wird sich daran erinnern, dass die IG-Farben drei Vertreter zu der Konferenz vom 29. Dezember 1941 entsandte, die darueber wachen sollten, dass die Farben Behring-Werke zum Zeitpunkt der Aufnahme der Massenproduktion von Fleckfieberimpfstoffen nicht uebergangen wuerden!  
VI,  
(Siehe Teil/MANN, unten). Man wird sich ebenso daran erinnern, dass es waehrend dieser Konferenz eines besonderen Nachdrucks seitens eines der IG-Farben-Vertreter bedurfte, bevor man sich schliesslich dazu entschloss, die Farben Behring-Werke an den vergleichswisen Versuchen zur Bestimmung der verhaeltnismaessigen Wirksamkeit der verschiedenen Impfstoffe zu beteiligen. Im Kreuzverhoer wurde Dr. DEMNITZ, LAUTENSCHLAGERS fuehrender Mann bei den Behring-Werken, befragt, warum es notwendig war, den Behring-Impfstoff zu forcieren, wenn der urspruengliche Cox-Impfstoff fuer die Massenproduktion geeignet war. In seiner Antwort fuehrte er aus, dass das Robert KOCH-Institut, das den Cox-Impfstoff herstellte, nicht die Produktionseinrichtungen besass wie die Behring-Werke. Dr. DEMNITZ wich jedoch der Beantwortung der weiteren Fragen aus, warum die Einrichtungen der Behring-Werke nicht fuer die Herstellung des Cox-Impfstoffes Verwendung gefunden haetten. DEMNITZ wurde gefragt:

F: "Herr Dr. DEMNITZ, die Behring-Werke haetten doch auch den Impfstoff nach dem Verfahren des Robert KOCH-Institutes herstellen koennen, nicht? Sie haetten doch ihre ausgezeichneten Einrichtungen fuer die Herstellung nach dem anderen Verfahren verwenden koennen, ist das nicht richtig?"

A: "Sie wuerden besser daran tun diese Frage an Prof. BIELING zu richten, da er dieser Ansicht war. Es war seine Ansicht, dass der Cox-Impfstoff, das heisst, die urspruengliche Herstellungsmethode, ausgezeichnet war und dass wir uns daran halten sollten." (Prot. 10845)

Dr. DEMNITZ erklarte spaeterhin, dass ungeachtet der Tatsache, dass die Robert KOCH (Cox) Methode sich zur Massenproduktion eignete, der ungeheure Bedarf an Fleckfieberimpfstoff dennoch nicht haette gedeckt werden koennen, falls man nicht das noch schnellere Verfahren der Behring-Werke angewendet haette. Indessen, als DEMNITZ ausdruecklich



befragt wurde, ob er je bei der Konferenz zur Sprache gebracht habe, dass genügende Mengen des Impfstoffes nicht hergestellt werden koemnten, es sei denn das Verfahren der Behring-Werke wuerde angewendet, gab er zu: "Nein, davon wurde nichts erwaeht." (Prot. 10846)

(200) Offenbar war der wirkliche Grund, warum die Vertreter der IG-Farben sich nicht freiwillig<sup>\*)</sup> dafuer hergaben, den Impfstoff nach dem Cox-Verfahren herzustellen der, dass sie weiterhin hofften, dass das Verfahren der Farben-Behring-Werke schliesslich angenommen werden wuerde. Dr. DEMNITZ liess das durchblicken als er zugab:

"Nun, bei dieser Konferenz berichtete Prof. KUDICKE ueber unseren Impfstoff. Dieser Bericht machte einen guten Eindruck." (Prot. 10847)

(201) Auf Grund des von Prof. KUDICKE erstatteten guenstigen Berichts und Dr. DEMNITZ' Vorschlag wurde beschlossen, den Behring-Impfstoff auszuprobieren. Nach dem offiziellen Protokoll dieser Konferenz einigte man sich dahin, dass

"der jetzt von den Behring-Werken hergestellte Impfstoff, der von bebruesteten Ruehnereien gewonnen wird, in einem Versuch auf seine Wirksamkeit geprueft werden soll. Zu dem Zweck wird Dr. DEMNITZ mit SS-Obersturmbannfuehrer Dr. MRUGOWSKI in Verbindung treten.

"Wenn sich dieser Impfstoff der Behring-Werke als wirksam erweist, soll die Produktionskapazitaet der Behring-Werke in Marburg wesentlich gesteigert werden." (Ankl.Bew. 2225)

Ebenso wurde vereinbart, dass DEMNITZ zur Durchfuehrung der vergleichenden Versuche den Impfstoff in der gegenwaertigen Form und in doppelter Staerke fuer diese Sendung bereitstellen wuerde. (Ankl.Bew. 1607)

(202) Der naechste Schritt bestand natuerlich darin, die notwendigen Versuchsmengen des Behring-Fleckfieberimpfstoffes abzusenden. Dies geschah am 14. Januar 1942, an welchem Tage die IG-Behring-Werke folgendes Schreiben an das Konzentrationslager Buchenwald richteten:

"Unter Bezugnahme auf verschiedene Unterhaltungen unserer Herren mit den Herren des Hyg. Instituts der Waffen-SS, Berlin, Knesebeckstrasse 43/44, gestatten wir uns Ihnen heute gratis per Express fuer 50 Personen 7 x 24 ccm Fleckfieberimpfstoff zuzusenden.

\*) Spaeter, als das Ergebnis der vergleichenden Versuche bekannt war, wurden die IG Behring-Werke beauftragt, den Cox-Impfstoff herzustellen. (Ankl.Bew. 1632).

"Dieser Impfstoff ist konzentriert und wenigstens zweimal so stark als der Impfstoff, den das Hygienische Institut der Waffen-SS bereits von dem linksseitig Unterzeichneten erhalten hat. Wie Ihnen bekannt, sollen auch Versuche mit anderen Impfstoffen ausser dem heute an Sie ab gesandten konzentrierten und den von uns bisher hergestellten Impfstoffen ausgeführt werden. (Ankl.Edh. 1609).

(203). Das Gericht steht nun vor der ausschlaggebenden Frage, welcher Art waren die geplanten Versuche, als man sich entschloss, die Wirksamkeit der Fleckfieberimpfstoffe in Vergleichsversuchen zu erproben. Niemand bestreitet, dass die geplanten Versuche an Menschen durchgeführt werden sollten. Die verbleibende Frage ist: was waren das fuer Menschen und unter welchen Bedingungen waren die Versuche auszuführen.

(204). Falls man dem Gericht einzureden versucht, die Angeklagten waren des Glaubens gewesen, ihr Fleckfieberimpfstoff solle von LUGROWSKY in einem Fleckfieberherd im Osten erprobt werden, bittet die Anklagebehörde das Gericht, sein Augenmerk darauf zu richten, dass die Vertreter der IG ohne allen Zweifel wussten, die Vergleichsversuche wurden nicht an Personen in einem Fleckfieberherd im Osten, sondern im Konzentrationslager Buchenwald selbst, in Deutschland, ausgeführt werden. Diese wichtige Tatsache ist bezeugt, nicht nur durch den tatsächlichen Versand der Versuchsmengen an Fleckfieberimpfstoff aus den Behringwerken der IG direkt an das Konzentrationslager Buchenwald, sondern auch durch die Aussage von Dr. DEHNITZ selbst, der beim Kreuzverhoer folgende Antwort gab: -f

Fr.: "Sie muessen die Frage missverstanden haben. Ich meine die Konferenz, der Sie am 29. Dezember beiwohnten und auf der der Beschluss gefasst wurde, Vergleichsversuche durchzuführen. Nun frage ich Sie, als dieser Versand nach Buchenwald stattfand, war das, um diese Versuche durchzuführen ?

A: Ich habe heute Morgen erklart, dass ich annehmen musste, diese Sendung sei fuer diesen Vergleichsversuch bestimmt gewesen." (Dr. 10849).

(205). Im Hinblick auf das Vorstehende ist es klar, dass DEMNITZ, der Hauptvertreter der IG auf der Tagung vom 29. Dezember, den Tagungsbeschluss zur Ausfuehrung von Vergleichsversuchen verwirklichte und 50 Dosierungen des Fleckfieberimpfstoffs der Behringwerke zur Durchfuehrung der Versuche an das Konzentrationslager Buchenwald sandte.

(206). An dieser Stelle ist das Gericht angesichts aller den Angeklagten bekannten Tatsachen zu der Frage berechtigt, ob diese Versendung von 50 Dosierungen von Fleckfieberimpfstoff zum Zwecke der Erprobung im Konzentrationslager Buchenwald gutglaubig gemacht wurde und ohne Kenntnis der Tatsache, dass die Versuchsobjekte kuenstlich mit Fleckfieberbazillen infiziert werden sollten. Die Anklagebehoerde unterstellt, dass es ohne weiteres Beweismaterial und ohne fremdes Informationsmaterial, das keinen Teil der Besprechung am 29. Dezember bildet, ueber jeden zusaessigen Zweifel erhaben erscheint, dass die Sendung nach Buchenwald nicht guten Glaubens gemacht worden ist.

(207). Wir wollen uns die diesbezuglichen Tatsachen nochmals vor Augen rufen. Man wird sich entsinnen, dass ein Professor KUDICKA im Laufe der Debatte waehrend der Tagung am 29. Dezember berichtete, er habe 3.000 Menschen mit dem Behring-Impfstoff in einem Fleckfieberherd in Polen geimpft, und nicht eine der schutzgeimpften Personen sei an Fleckfieber erkrankt. (Ankl. Exh. 1606). Nun erhebt sich die Frage, waren die Behoerden nach Erhalt der Mitteilung ueber die Impfung von 3.000 Personen in einem Fieberherd, von denen nicht eine an Fleckfieber erkrankte, nicht mit der Wirksamkeit des Behringimpfstoffs zufrieden, und welchen endgueltigen Beweis oder vorlaesslicheren Beweis erwarteten sie von der Impfung von 50 Personen in Buchenwald? Gerade diese Frage wurde an Dr. DEMNITZ gerichtet:

Fr.: " ... Nun, auf Grund der Debatte bei der Tagung am 29. Dezember wussten Sie ja doch, dass Ihr Behring-Impfstoff bereits



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an 3 000 Personen in einem Fleckfieberherd erprobt worden war. Welchen zusätzlichen oder genaueren Beweis erhofften Sie sich denn von den nach Buchenwald versandten 50 Dosierungen?

A: KUDICKE hatte 3 000 Personen schutzgeimpft. Das war weder ein Versuch noch eine Erprobung. Er war die übliche Verabreichung von Schutzimpfung." (Tr.S. 10349).

Tatsächlich traf die Antwort Dr. DENITZ' teilweise zu. Obgleich Dr. KUDICKE 3000 Personen geimpft hatte, war dies weder "ein Versuch noch eine Erprobung". Sicherlich war es kein Versuch oder eine Erprobung im Sinne der von DING in Buchenwald durchgeführten Versuche, die auch künstliche Infizierung der Versuchsobjekte einschlossen. Andererseits war es vollkommen klar, dass Professor KUDICKE die übliche Art von Erprobung durch Schutzimpfung von Personen in einem Fieberherd durchgeführt und das Ergebnis beobachtet hatte. Bei einer Erörterung der Versuche des Dr. KUDICKE sagte Dr. DENITZ in seinem Bericht über die Tagung vom 29. Dezember, dass der Behring-Impfstoff bereits eine besondere Probe bestanden habe.

"er, (KUDICKE), habe nämlich zahlreiche Juden im Warschauer Ghetto, die besonders exponiert waren, mit unserem Impfstoff schutzgeimpft und habe bis zum heutigen Tage noch nicht einen Versager gesehen." (Ankl.Exh.1607).

Aussordem hatte Dr. KUDICKE bei seinen Versuchen im Warschauer Ghetto, wo die Versuchsobjekte "einer Infektion besonders ausgesetzt" waren, fast ideale Bedingungen fuer die Durchführung von rechtmässigen Erprobungen des Behring-Impfstoffs.

(208). Wenn wir nun annehmen, die Versuche in Buchenwald haetten sich nicht auf die künstliche Infizierung der Versuchsobjekte erstrecken sollen, wird es sofort klar, dass diese Sendung von 50 Dosierungen nach Buchenwald gar keinen praktischen Wert gehabt haben wuerde. Das ist sogar richtig, wenn wir annehmen, Buchenwald, im Herzen Deutschlands und nicht im Osten gelegen, sei ein "Seuchenherd" gewesen.

(209). Angenommen, die Angeklagten haetten irrtuemlich vorausgesetzt, Buchenwald sei ein Fleckfieberherd, welchen Nutzen haetten sie dann von den Buchenwald-Versuchen erwarten koennen? Bestenfalls haetten die Versuche ergeben, dass 50 mit Behring-Impfstoff in einem Fleckfieberherd schutzgeimpfte Personen nicht erkrankten. Das waere wohl kaum das erwuenschte Ergebnis gewesen, da sie ja bereits wussten, dass 3 000 Personen in einem Fleckfieberherd mit Behring-Impfstoff schutzgeimpft worden und nicht erkrankt waren.

(210). Die wirkliche Antwort ist die folgende: Bekanntermassen ist Flecktyphus keine ansteckende Krankheit und kann nur durch den Biss infizierter Laeuse uebertragen werden; man kann aber auf keine Art feststellen, ob eine Person oder Gruppe von Personen tatsaechlich gebissen worden ist. Es ist klar, wenn fuer 3.000 Personen die Moeglichkeit gebissen zu werden besteht, dann ist die Wahrscheinlichkeit in einem mit Fleckfieber versuchten Gebiet erheblich groesser, dass einige von ihnen tatsaechlich gebissen werden. Wenn aber nur 50 Personen in einem ebenfalls versuchten Gebiet dieser Moeglichkeit ausgesetzt sind, dann besteht nur ein sechzigstel dieser Wahrscheinlichkeit.

(211). Tatsaechlich war diese Wahrscheinlichkeit bei weitem groesser, weil Buchenwald kein fleckfieberverseuchtes Gebiet war (Ankl.Exh. 1611), und weiter, die Tatsache, dass das eigentliche Deutschland weitgehend frei von Fleckfieber war, war bekannt und wurde auf der Tagung vom 29.Dezember erortert und von DEHITZ selbst in seinem Sitzungsbericht vermerkt. (Ankl.Exh.1607).

(212). Die einzig moegliche Erklaerung, weshalb die zust"ndigen Behoerden, einschliesslich der IG Teilnehmer, ueberzeugendere Beweise aus der Impfung von 50 Personen in Buchenwald als aus der Impfung von 3000 Personen in Warschau erhofften, ist die, dass sie sich nicht auf die winzige Wahrscheinlichkeit, die dafuer bestand, dass eine der Personen tatsaechlich von einer infizierten Laus gebissen wurde, zu verlassen brauchten.

Hinsichtlich der 50 Versuchs-personen in Buchenwald konnten sie einer Infizierung sicher sein, weil der Fleckfieberbazillus kuenstlich eingefuehrt war.

(213). Die Angeklagte Herde unterstellt, dass es keine andere vernunftgemasse Auslegung des Beschlusses auf der Tagung vom 29. Dezember gibt, als die, dass geplant war, medizinische Versuche an Menschen in einem Konzentrationslager durchzufuehren, dass man sie kuenstlich mit Fleckfieberbazillen infizierte, um die Wirksamkeit des Behring-Impfstoffes zu erproben. Weiter, es ist erwiesen, dass drei IG-Vertreter, unter ihnen einer von MANNs Hauptassistenten und LAUTENSCHLAGERS Spitzenmann fuer die Behringwerke, an dieser Entschliessung beteiligt waren. Gensowenig kann noch ein Zweifel daran bestehen, dass die Angeklagten HOERLEIN, LAUTENSCHLAGER und MANN nicht nur Abschriften der Sitzungsniederschrift erhielten (Tr. 3.6418), sondern auch sofort aktive Schritte zur Ausfuehrung dieses Beschlusses unternahmen.\*

(214). Die vorstehende Betrachtung zeigt, dass der auf der Tagung vom 29. Dezember gefasste Beschluss dahinging, die Vergleichswerte der Behring-Impfstoffe durch kuenstliche Infizierung der Versuchs-personen mit Fleckfieberbazillen zu erproben, und dass die IG-Vertreter nicht nur auf eine Erprobung auch ihrer Impfstoffe draengten, sondern auch selbst durch Lieferung der benoetigten Impfstoffe ihren Teil zur Ermoglichung dieser Versuche beitrugen. Eine Tatsache ist noch nicht erklart worden, naemlich warum es noetig war, zu ungesetzlichen, unmenschlichen und ungewoehnlichen Arten der Erprobung eines Serums gegen eine gefaehrliche Seuche zu greifen. Schliesslich gab es im Osten genug fleckfieberverseuchte Gebiete, wo Versuche im Grosse durchgefuehrt und das von Dr. DEMNITZ erwahnte Standardprinzip im Hinblick auf die verschiedenen Impfstoffe angewendet und die erforderlichen Beobachtungen und Kontrollen mit Leichtigkeit gemacht werden konnten.

\*Bezuglich HOERLEINs und MANNs Kenntnis und Teilnahme an der Tagung vom 29. Dezember 1941 siehe Teil VI. Was LAUTENSCHLAGER angeht, liegt nunmehr der Beweis vor, dass er sofort seine Impfstoffe fuer die vereinbarten Erprobungen fertig stellte.



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Die "Kontrolle" bei der Impfung besteht lediglich darin, dass man nach der vollzogenen Impfung einen gewissen Zeitraum abwartet um zu sehen, ob eine der geimpften Personen an Fleckfieber erkrankt. (Prot. 10849-50).

(215) Der Zeuge der Verteidigung, SS-Dr. MRUGO VSKY, liefert in einer zu Gunsten LAUTENSCHLAEGER's abgegebenen eidgesetzlichen Erklerung den wirklichen Beweggrund fuer die Entscheidung, eine Versuchsercihe mit kuenstlicher Infektion zu beginnen. Er erklert, dass der Grund fuer die Erprobung von Impfstoffen an Haeftlingen mittels kuenstlicher Infektion der war, dass die den Gesetzen entsprechende Pruefungsmethode zu lange Zeit beanspruchte.

Dr. CONTI, der die Konferenz vom 29. Dezember anberaumte, war der "Anstifter" der Ding-Versuche um

"so schnell wie moeglich eine endgueltige Kenntniss von dem Schutzwert der in Deutschland vorhandenen Fleckfieberimpfstoffe zu bekommen und schlug zu diesem Zwecke vor, Haeftlinge in Konzentrationslagern mit den Impfstoffen zu immunisieren und sie nach Eintritt der Immunitet mit dem Fleckfieber-Virus kuenstlich zu infizieren. Auf diese Weise sollte bei gleichen Versuchsbedingungen das Ergebnis in wenigen Wochen beschafft werden." (Laut.Ex.5)

Am 21. Maerz 1941, kaum mehr als 2 Monate nach der Absendung der Versuchsmengen an Fleckfieberimpfstoff nach Buchenwald, richteten die Behring-Werke eine Anfrage dorthin bezueglich des Ergebnisses der Vergleichsversuche, und erfuhr, dass

"der von Ihnen hergestellte Fleckfieberimpfstoff sich als weniger wirksam erwiesen hat als der aus bebruecteten Huehnerciern hergestellte Impfstoff des Robert-Koch-Institutes." (Ankl. Exh. 1632)

Es wird beilaeufig bemerkt, dass als Ergebnis der ersten Reihe der Vergleichsversuche mit Fleckfieberimpfstoffen fuerf Todesfaelle zu verzeichnen waren: drei aus der Kontroll-Gruppe (d.h. jene, die vor der Infizierung ueberhaupt nicht geimpft wurden) und je ein Toter der beiden mit dem Behrings-Impfstoff geimpften Gruppen. Unter jenen mit dem Weigl-Impfstoff oder dem Cox-(Robert Koch) Impfstoff geimpften Personen gab es keine Todesfaelle. Nachdem DEHNITZ verstaendigt worden war, dass der Behring-Impfstoff

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minderwertiger sei (Ankl. Exh. 1632), und nachdem DEMNITZ ein Schreiben von Prof. BIELING (dem Assistenten LAUTENSCHLAGER's) erhalten hatte, der zugestandenermassen wusste, dass die Ding-Versuche sich mit kuenstlicher Infektion beschaeftigten, und DEMNITZ mitteilte, dass es sich hier um

"Eruefungen an Menschen handelte, die wenig zweckmassig seien." (Ankl. Exh. 2269),

sandte DEMNITZ erneut Behring-Impfstoff nach Buchenwald fuer weitere Versuche. Im Ding-Tagebuch (Ankl. Exh. 1608) erscheint unter dem Datum des 1. - 20. Dezember 1942 die folgende Eintragung:

"Fleckfieber-Impfstoff-Versuchsreihe V

Zur Feststellung der schutzwirkung werden 20 Personen mit Impfstoff "EM" der Behringgruppe - Dr. DEMNITZ - ..... aktiv geimpft.

26.1.43: kuenstliche Infektion mit Eidotter-Virus."

(216) Bevor wir die naechste Versuchreihe besprechen, sind vielleicht einige Bemerkungen bezueglich LAUTENSCHLAGER's Zeugen am Platze, besonders da LAUTENSCHLAGER selbst nicht als Zeuge in eigener Sache auftrat, sondern sich in der Hauptsache auf die Aussage des Dr. DEMNITZ verliess.

Entlastungszeuge Dr. DEMNITZ.

(217) Dr. DEMNITZ, nach LAUTENSCHLAGER der fuehrende Mann der Behring-Werke, gab zu den Anklage-Exhibits 1601-1603 Erklaerungen dahingehend ab, dass diese nichts mit verbrecherischen medizinischen Experimenten zu tun hatten. Damit bestaetigte er gerade den Umstand, der die Anklagevertretung veranlasst hatte, diese Beweisstuecke vorzulegen, d.h. nachzuweisen, dass die Behring-Werke bereits im Jahre 1939 neue Praeparate an das K.Z. Buchenwald sandten, um diese an Haeftlingen zu erproben. DEMNITZ hat zugegeben:

(a) "Wir sandten eine neuere Art des Impfstoffes, die bisher nicht in Gebrauch war."

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- (b) "Zwar konnten die Behring-Werke aus den geschäftlichen Transaktionen den Schluss ziehen, dass in Buchenwald ein Konzentrationslager bestand."
- (c) "Dass die mit dem neuen Impfstoff geimpften Personen Häftlinge waren."  
(Prot. 10832. Vergleiche Teil IV, S. 6, Preliminary Memorandum Brief.)

(218) Dr. DEMNITZ unterhielt sich mit Prof. BIELING, LAUTENSCHLAGER's Assistenten, ueber die verschiedenen Fleckfieberimpfstoffe. Vor diesem Gesprach war BIELING durch DING mitgeteilt worden, dass er Versuche "mit kuenstlicher Infektion an menschlichen Versuchspersonen" durchfuehre (Ankl. Exh. 2269). DEMNITZ hat bezeugt, dass BIELING niemals erwaehnt habe, dass in Buchenwald kuenstliche Infektionen durchgefuehrt wuerden. Im Kreuzverhoer ausdruuecklich darueber befragt, was BIELING ihm gesagt habe, gab er an, dass BIELING folgendes gesagt habe:

"Man muss daraus schliessen, dass die Impfung wirksam war." (Prot. 10852)

Der Gerichtshof wird feststellen, dass BIELING im Gegensatz zu der Aussage des DEMNITZ in einer der Anklagevertretung abgegebenen eidesstattlichen Erklaerung aussagte, er habe DEMNITZ dahingehend informiert, dass die Ding'schen Versuche

"an Menschen wenig zweckmaessig seien."  
(Ankl. Exh. 2269)

(219) Waehrend des direkten Verhoers wurden die folgenden Aussagen gemacht:

F: "Sie sagten, dass Prof. LAUTENSCHLAGER nur in grossen Zuegen informiert war. Haben Sie ihn von dem Ergebnis der vergleichenden Impfstoff-Versuche, die nachher im Reichsinnenministerium durchgefuehrt wurden, unterrichtet, und ich nehme hier insbesondere Bezug auf den Bericht Dr. MRUGOWSKY's von 5. Mai 1942?"

A: "Ich glaube mich noch zu erinnern, dass ich das getan habe."

F: "Koennen Sie uns vielleicht sagen in welcher Weise Sie Prof. LAUTENSCHLAGER informierten?"



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1: "Soweit ich mich erinnere, sagte ich zu ihm wahrscheinlich eines Tages, dass es nun erwiesen sei, dass der aus bebrueteten Huhnereiern hergestellte Impfstoff genau so wirksam waere wie der Weigl-Impfstoff - der Lauske-Impfstoff."  
(Prot. 10835)

LAUTENSCHLAEGER, als Chef sowohl der Behring-Werke als auch des Lemberger Institutes, die beiden Hauptproduktionsstaetten fuer Fleckfieberimpfstoffe, war die Personlichkeit in Deutschland, die an den damals durchgefuehrten vergleichenden Impfstoffversuchen am meisten interessiert war. Das Ergebnis dieser Versuche sollte darueber entscheiden, ob LAUTENSCHLAEGER in der Lage sein wuerde, seinen eigenen Behring-Impfstoff herzustellen oder eine Umstellung vom Behring-Impfstoff auf den Cox-Impfstoff werde vornehmen muessen; und sollte auch darueber entscheiden, was LAUTENSCHLAEGER in seinem Lemberger Institut produzieren wuerde. Jedoch, als befragt, ob er LAUTENSCHLAEGER von den vergleichenden Versuchen in Kenntnis setzte, erklarte DEMNITZ:

"Ich glaube mich noch erinnern zu koennen, dass ich es getan habe."

Die Antwort auf die zweite Frage zeugt noch von groesserer Phantasie. Man wird sich daran erinnern, dass der Zweck der vergleichenden Versuche gerade darin bestand, festzustellen, ob der Behring-Impfstoff oder der Cox-Impfstoff produziert werden sollte. Der offizielle Bericht ueber die Konferenz vom 29. Dezember 1941 fuehrt an:

"Der jetzt von den Behring-Werken hergestellte Impfstoff, der von bebrueteten Huhnereiern gewonnen wird, soll in einem Versuch auf seine Wirksamkeit geprueft werden. Zu diesem Zweck wird Dr. DEMNITZ mit SS-Obersturmbannfuehrer Dr. MRUGOWSKY in Verbindung treten."

"Wenn sich dieser Impfstoff der Behring-Werke als wirksam erweist, soll die Produktionskapazitaet der Behring-Werke wesentlich gesteigert werden."  
(Inkl. Exh. 2255)

Nunmehr, nachdem die Versuche durchgefuehrt waren und der Behring-Impfstoff nicht so wirksam wie die anderen befunden worden war, erklart DEMNITZ, dass er wahrscheinlich zu LAUTENSCHLAEGER gesagt habe, dass der aus Eiern hergestellte Impfstoff sich genau so wirksam wie der Weigl-Impfstoff erwiesen haette - wobei er vollstaendig ueber

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den Hauptzweck der Versuche hinwegzieht, der darin bestand, festzustellen, welcher der beiden fuer die Massenerzeugung geeigneten Impfstoffe (Cox und Behring-Werke) - beide aus Huehneriern hergestellt) der wirksamere waere.

MRUGOWSKY

(220) Abgesehen von Dr. DEMNITZ, stuetzt sich die Verteidigung augenscheinlich in hohem Grade auf das Affidavit MRUGOWSKY's, das alle Seiten des Falls behandelt. MRUGOWSKY, der fuer seinen Anteil an den gleichen hier behandelten Versuchen zum Tode verurteilt wurde, gibt zur Entlastung LAUTENSCHLAGER's, und der I.G. in allgemeinen, ein Affidavit ab. MRUGOWSKY spricht die I.G. Farben der Teilnahme an irgendwelchen Versuchen frei, und natuerlich sich selbst ebenso. Was seine Glaubwuerdigkeit betrifft, so ist die Tatsache, dass er sich selbst ein Unschuldsguegnis ausstellt hinsichtlich der Versuche in Verbindung mit welchen er fuer schuldig befunden und zum Galgen verurteilt wurde, nicht gerade ein sehr ueberzeugender Beweis dafuer, dass seine bezueglich der I.G. Farben gemachten Aussagen irgendwie verlaesslicher sind.

(221) In seinen der Verteidigung zur Verfuegung gestellten Affidavit unterstreicht MRUGOWSKY im Zusammenhang mit den Ding'schen vergleichenden Fleckfieberimpfstoff-Versuchen zwei Punkte besonders. Erstens, dass die Behring-Werke den Impfstoff nicht an DING geliefert hatten, und, zweitens, dass DING, wegen der Geheimhaltung, die gewoehnlich in Bezug auf die Taetigkeit der SS in den Konzentrationslagern beobachtet wurde, die Behring-Werke nicht ueber seine Experimente informiert haette. Was den ersten Punkt betrifft, so hat MRUGOWSKY angegeben:

"Ich habe niemals gehoert, dass Dr. DING mit Dr. DEMNITZ oder einem anderen Vertreter der Behring-Werke jemals ueber die direkte Lieferung von Impfstoffen an ihn verhandelt hat. Ihn waren Impfstoffe zu jeder Zeit zuganglich. Das Hauptsanitatslager der Waffen-SS in Berlin-Lichtenberg, die Zentralstelle fuer die Arzneimittelversorgung der Waffen-SS und der Konzentrationslager, verfuegte bereits Ende 1941 ueber einen kleinen Bestand an Fleckfieberimpfstoffen verschiedener Herkunft. Es war fuer Dr. DING daher ein Leichtes, sich aus dieser Quelle die verschiedenen Impfstoffe fuer seine Zwecke zu beschaffen, ohne das Hauptsanitatslager oder den Hersteller irgendwie in Kenntnis ueber den beabsichtigten Versuchszweck zu setzen."

(LAUTENSCHLAGER Exh.5) 106 -



Die beste Antwort auf die logische Inferenzstellung durch IRUGOLSKY stellen die bewiesenen Tatsachen dar. DEMITZ selber hat zugegeben, dass er den Impfstoff, der in den Behring-Werken hergestellt worden war, an das Konzentrationslager in Buchenwald tatsächlich fuer den Zweck der Vergleichsversuche geliefert hat. Abgesehen von diesem Eingeständnis seitens Herrn DEMITZ, liegt auch das Schreiben an Buchenwald, das die Sendung begleitete und ausdrücklich die Verwendung nannte, als Beweisstück vor. Insofern ist IRUGOLSKYs Aussage deshalb interessant, weil sie sich auf seinen zweiten Punkt, nämlich die Geheimhaltung, bezieht. Wenn die Geheimhaltung fuer DING wirklich so wichtig war wie IRUGOLSKY angibt,

"fuer Dr. DING...ein leichtes, sich...die verschiedenen Impfstoffe...zu beschaffen, ohne den ...Hersteller irgendeine Kenntnis des beabsichtigten Versuchszweckes zu geben," (Laut. Exh. 5)

Dann ist es bezeichnend, dass er trotzdem seine Impfstoffe direkt vom Hersteller bezog. In Wirklichkeit wurde die sogenannte Geheimhaltung meistens durchbrochen als gewohnt. Man wird sich erinnern, dass Dr. DING keinerlei Bedenken hatte, Prof. DIEHLING alle Einzelheiten der Versuche zu erklären, mit ausdrücklicher Erwähnung der künstlichen Infektion. Man wird sich ferner dessen entsinnen, dass DING, als er LAUTENSCHLAGER in Hoechst, in Verbindung mit seinen späteren Versuchen mit dem Hoechst-Erzeugnis Avidin, aufsuchte, sich keinerlei Mühe gab, die Tatsache zu verbergen, dass er das genaue Datum der Infizierung der Versuchsobjekte kannte. LAUTENSCHLAGER hat selbst angegeben, es wurde ihm klar geworden, dass DINGs Versuche auch künstliche Infizierung betrafen. Schliesslich wird sich das Gericht daran erinnern, dass Dr. KOGON, der DINGs Sekretär in Buchenwald war, ausgesetzt hat, er persönlich habe den Herstellern, den Behring-Werken und Hoechst, ins einzelne gehende Berichte ueber die Versuche einschliesslich der Mordartikeln, Todesraten usw. uebersandt. DINGs Kopierschreiber, DIETSCH, hat darauf hingewiesen, dass die genannten Tabellen das Datum der Infizierung enthielten.



(222) Es wird anheim gestellt, das unglaubliche Zeugnis der Hauptbelastungszeugen gegen das überwältigende Beweismaterial der Anklage, welches fast ausnahmslos aus Schriftstücken aus der fröhlichen Zeit besteht, abzuwägen. (b) Versuche in Konzentrationslager Buchenwald zur Feststellung der Wirksamkeit der von der IG hergestellten Gases-Heilmittel Iodidin, Rutinol und Methylen Blau.

(223) Angesichts der Tatsache, dass die Versuche mit Methylen Blau in Teil VI, HOERLIN behandelt werden, soll sich die Erörterung an dieser Stelle auf solches Beweismaterial beschränken, das nachträglich seit der Vorlage des Preliminary Memorandum Brief zum Vortrag gelangt ist.

(224) Dr. EDER ist LAUTENSCHLAGERS Hauptzeuge hinsichtlich der Heilmittelversuche in Buchenwald. Einige Bemerkungen über EDERs Glaubwürdigkeit liegen bei der Bestimmung des Gewichtes, das seinen Aussagen beizulegen ist, von Nutzen sein. Von Anfang an sollte man sich merken, dass EDER erklärt, er sei vollkommen für die ausgeführten Versuche verantwortlich. Er zieht diese Aussage ganz Furcht und Zögern aus seinem Vorsteck in der Schweiz. Interessant ist, dass seine Aussage unterschrieben ist: "Orte Angabe des Ortes". Die Beileubung, enthält folgende Bemerkung:

"Die Ortsangabe wurde fortgelassen, weil der Aussteller zur Zeit seinen Aufenthaltsort nicht zu enthüllen wünscht. Der Aussteller willigte in die Fertigung dieses Affidavit nur, nachdem ihm versichert worden war, dass die berufliche Schweigepflicht bezüglich seines Aufenthaltsortes gewahrt werden wird." (Laut. Exh. 61)

Unter diesen Umständen wird unterstellt, dass seine Übernahme der vollen Verantwortung nicht viel bedeutet.

(225) In derselben Kavaliershaltung weist EDER die Aussagen der verschiedenen Belastungszeugen zur Sache hinstorisch zurück und bestreitet die Genauigkeit zeitgenössischer Schriftstücke. (Seite 41, 45).

(226) Es ist interessant, zu beobachten, dass sogar LAUTENSCHLAGERS

Erkenntnis, er habe in den Besprechungen mit DING und  
WEBER von den künstlichen Infizierungen erfahren, jetzt  
von WEBER angezweifelt wird. WEBER sagt:

"Ich, Professor LAUTENSCHLAGER... ausgesagt hat,  
dass ihn durch die Aussage DINGs über 'lo-  
sierte Infektionen' klar geworden sei, dass  
DING mit künstlichen Infektionen gearbeitet  
habe, so habe ich darüber eine ganz andere  
'auffassung', zu deren Erklärung ich den Begriff  
der 'lo-sierten Infektion' nachstehend genauer  
erläutere." (Aut. Exh. 61, Seite 42).

(227) Das Gericht wird besonders auf das Aut. Exh.  
2250, ein Schreiben von Professor BILLING an Dr. WEBER,  
hinweisen. Professor BILLING schreibt:

"Auch die Kranken, welche eines der Präparate  
bereits während der Inkubation erhielten,  
haben dann später auch nach dem Ausbruch der  
Erkrankung, der übrigens auch dann zu normalen  
Zeit erfolgte, die Gabe besser vertragen."

Die Anklagebehörde unterstellt, dass dieser Teil eines  
Dokuments aus der früheren Zeit, das von einem der  
Hauptassistenten LAUTENSCHLAGERS, der damals beim Heer  
war, an Dr. WEBER, den Leiter von LAUTENSCHLAGERS Poliklinik  
in Moskau, gerichtet wurde, nicht nur WEBERs Behauptung  
widersetzt, er habe nicht gewusst, dass DINGs Versuche mit  
künstlicher Infektion durchgeführt wurden, sondern auch  
die grundsätzliche Stellungnahme der Anklagebehörde be-  
stätigt, dass die genauen Bedingungen, unter denen DING  
arbeitete, bei der IG durchaus bekannt waren.

(228) Man wird sich entsinnen, dass Dr. WEBER in  
seinem Affidavit folgendermaßen ausgesagt hat:

"Die Diagnose auf 'Plockfieber' ist in den frü-  
hen Stadien schwer zu stellen. Deshalb liessen  
viele Ärzte hochfiebernde Patienten bis zur  
Stellung der genauen Diagnose unbehandelt und  
verloren dadurch kostbare Zeit. Ich habe da-  
gegen immer den Standpunkt vertreten, dass an  
Seuchenhörigen Patienten mit Fieber und mit  
hohem Fieber unklarer Ursache grundsätzlich  
sofort.....behandelt werden sollten." (Aut.  
Exh. 61):



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Es ist bemerkenswert, dass sogar WEBERs radikalere Methode zwei Umstände bedingte um Behandlung auf Fleckfieber zu rechtfertigen.

- (a) Dass der Patient Lacuse haben und in einem Scushenherd wohnen muss;
- (b) Dass er hohes Fieber aus unfeststellbaren Gründen haben muss.

(229) Auf den BIELIG Brief zurückkommend, ist daraus zu erschen, dass DINGs Patienten während der "Inkubationszeit" auf Fleckfieber behandelt wurden. Es wird unterstellt, dass die Behandlung während der "Inkubationszeit" eine Voraussetzung voraussetzt, die nur mit künstlicher Infizierung beschäftigten Personen zur Verfügung steht. Ein Mensch, der Fleckfieber hat, das sich noch in der Inkubationsphase befindet, ist ein durchaus normaler Mensch und zeigt keinerlei Symptome. In der Tat, um jederlei Missverständnis des Wortes "Inkubation" auszuschalten, erklärt BIELIGs spätere Aussage seine (des Wortes) Bedeutung ganz eindeutig. Er sagt: "Sogar später, nach dem Ausbruch der Krankheit" (S. E. 2260), was zeigt, dass die Behandlung, auf die er sich bezieht, vor dem Ausbruch der Krankheit stattfand. Selbst Dr. WEBER, der fuer frühzeitige Behandlung war, hat nicht einmal vorgeschlagen, dass Personen, die nicht wenigstens "hohes Fieber aus unfeststellbaren Gründen" hatten, behandelt werden sollten. Zweifellos, könnte man sich theoretische von weit-hergehende Situationen ausdenken, wie zum Beispiel eine Behandlung auf Fleckfieber aller in Fleckfieber versuchten Gebieten wohnenden und von Lacusen geplagten Personen. Die einfache Aufstellung dieser Möglichkeit bedingt ihre Vermutung. Ungleich einem Impfmittel, immunisiert therapeutische Behandlung nicht, so dass



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es in wahrscheinlich 99 von 100 Faellen vollstaendig nutzlos waere, Personen in einem Fleckfieber versuchten Gebiet zu behandeln; und zwar waere die Behandlung nutzlos gewesen, wenn die Personen nicht mindestens infiziert und in der "Inkubationsperiode " waeren.

(c) Experimente in KZ Auschwitz um die Wirkung des Farben  
Chemo-Therapeuticum Acridin "5582" bei der Behandlung von  
-Fleckfieber- festzustellen.

(230) In Verbindung mit der Aussage und den Dokumenten ueber die Experimente in Auschwitz mit Farben Heilmitteln (therapeutics) ist ueber das deutsche Wort "Versuche" oft diskutiert worden. Man hat behauptet, dass, wenn ein Deutscher das Wort "Versuche" gebraucht, er niemals damit ausdruecken will, dass ein Experiment mit kuenstlicher Infizierung stattfinden soll. Es wurde immer wieder behauptet, dass das deutsche Wort "Experimente" Experiment heisse, in dem Sinne einer kuenstlichen Infizierung, wie zum Beispiel von Tieren, und dass "Versuche" sich auf das Eingeben von Medikamenten um schon kranken Menschen zu helfen, beschaenke.

(231) Die Anklagebehoerde legt ihren Gebrauch des Wortes "Experiment" keinerlei Bedeutung bei und behauptet in keiner Weise, dass das Wort "Experiment" in einem Dokument oder einer Eidesstattlichen Erklaerung sich auf etwas Illegales, Unmoralisches oder irgendwie Inkorrekties bezieht. Die Anklagebehoerde stuetzt sich lediglich auf den Beweis der tatsaechlichen Verhaeltnisse, unter denen die Experimente oder Versuche ausgefuehrt worden sind, und nicht auf das DIE-Geschehnisse bezeichnende Wort. Da jedoch die Verteidigung so stark und oft behauptet hat, dass die einfache Tatsache, dass die Farben Leute das Wort "Versuche" fuer das Ausprobieren ihrer Praeparate in Auschwitz gebrauchten, ein Beweis dafuer sei, dass sie weder etwas von kuenstlicher Infizierung wussten noch etwas derartiges beabsichtigen, verweist die Anklagebehoerde den Gerichtshof auf das Kreuzverhoer von Adolph BUTENANDT, der als Spezialist fuer HOERLEIN ausgesagt hat.

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F.: " Herr Zeuge, haben Sie ziemlich ausfuehrlich ueber das Wort " Versuche", welches Sie mit "tests " uebersetzt haben, und ueber das Wort "Experimente", als das deutsche Wort fuer "Experiments", ausgesagt. Wenn ich Sie richtig verstanden habe, haben Sie den Unterschied gemacht, dass im ersten Falle Versuche an bereits kranken Menschen gemeint sind, und in dem zweiten Falle Experimente an kuenstlich infizierten Menschen. Stimmt das ?



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- A. Ja, das stimmt, aber ich hatte einen Versuch einem Patienten zu helfen nicht fuer ein Experiment.
- F. Ein Patient ist ein Mensch, der bereits krank ist?
- A. Ja.
- F. Nun, bei Tierversuchen, ist es nicht eine Tatsache, dass das Wort "Versuche" auch gebraucht wird?
- A. Ja.
- F. Obwohl bei Tierversuchen es ausser Frage steht, dass es ein Experiment in Ihrer Bedeutung des Wortes "Experiment" ist?
- A. Ja; bei einem Tier ist es ein Experiment in dem Sinne des Wortes "Experiment", das ausgefuehrt wird, nur um wissenschaftliche Erfahrungen zu machen, aber ohne jeden Wunsch dem Tier zu helfen.
- F. Ja, und bei Tierexperimenten ist es ueblich das Wort "Versuche" so wie "Experimente" zu gebrauchen, nicht wahr?
- A. Ja.
- .....
- F. Verzeihung. Ich habe Ihnen einen angenommenen Fall geschildert und Sie, als einen Spezialisten, geboten mir den richtigen Ausdruck zu sagen. Ich habe erklart, dass bei Tierexperimenten, bei denen ein Tier kunstlich infiziert wird, das Tier zweifellos vorher nicht krank war. - In solch einem Fall, ist es nicht ganz korrektes Deutsch das Wort "Versuche" in der Beschreibung dieses Experimentes zu gebrauchen?
- A. Ja.
- F. Ich danke Ihnen." (Prot. 6195-6)

(232) Noch ein Thema, das viel diskutiert worden ist und fuer das einige Beweise vorgelegt worden sind, und das lediglich im Interesse der Aktenfuehrung aufgeklaert werden musste, betrifft den Zweck zu dem Praeparate an die verschiedenen KZs geschickt worden sind. Die Verteidigung, und insbesondere der Angeklagte HOERLEI<sup>1</sup> und Zeugen in seiner Sache, wie z.B. Dr. LUECKER, haben auseinandergesetzt, dass die Anklagebehoerde ein verzerrtes Bild vorgelegt hat, und dass die Farben Praeparate

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in Wirklichkeit geschickt worden waren, um den ungluecklichen Insassen zu helfen.

In Bezug auf die Lieferungen von Farben Modikamenten an KZs, erklarte HOERLEIN:

"Ich haette es fuer eine Unterlassungssuende oder - in den Worten der Anklagebehoerde - ein Verbrechen gegen die Menschlichkeit gehalten, wenn ich nicht alles mir moegliche getan haette, um diesen armen Leuten zu helfen."  
Prot. 6257)

Die Anklagebehoerde hat die von ihr vorgelegten Dokumente nochmals ueberprueft nach einem Brief oder einem Protokoll einer Konferenz oder einer inneramtlichen Notiz bezueglich Lieferungen von Modikamenten an KZs, welche auch nur ein Motiv oder einen Zweck den ungluecklichen Insassen zu helfen angedeutet haetten. Sie hat keine solche Andeutung gefunden. Auf der positiven Seite, erwachte fast jedes Dokument genau die von Farben erwunschten Versuche. (Prosecution Exh. 1639, 1636, 1633, 1609, 1603, 1651, 1652, 1650, 1657, 1692, 1694, 1700, 1708, 1709, 1711, 1712, und 1732.) Die Anklagebehoerde gibt zu, dass in einem Fall Mitigal, ein bekanntes Praeparat, das nicht ausprobiert worden brauchte, in Verbindung mit einer Kraetze Epidemie nach Auschwitz geliefert worden ist.

(239) Das grundsatzliche Beweismaterial bezueglich von Experimenten, die in Buchenwald und Auschwitz mit Farben Hilfsmitteln ausgefuehrt worden sind, ist in dem Preliminary Memorandum Brief, welcher hiermit nur ergaenzt wird, enthalten.

ENDE

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BEGLAUBIGUNG DER UEBERSETZUNG  
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6. Juli 1948

Wir bestaetigen hiermit, dass wir offizielle Uebersetzer fuer die  
englische und deutsche Sprache sind, und dass obiges Schriftstueck  
eine wahrheitsgetreue und genaue Uebersetzung des Dokuments  
- Final Brief of the Prosecution Part IV -.

Hildegard L. FIRTEL, ETO 17415, (Seiten 9-18; 25-30; 107-109)

.....

Gerhard FISCHER, ETO 17397, (Seiten 72-75)

.....

Rosl GETREU, ETO 45672, (Seiten 19-24; 48-57)

.....

Paul E. GROPP, AGO B 397975, (Deckblatt, Index, Seiten 1-8; 31-36;  
43-47; 66-71; 86-106)

.....

Hanna Marie NICHTENHAUSER, AGO D 047675, (Seiten 110-113)

.....

Hans NICHTENHAUSER, ETO 20113, (Seiten 58-60)

.....

Alfred OBERLAENDER, ETO 20192, (Seiten 37-42; 61-65; 76-85)

.....



MILITÄR GERICHTSHOF

DIE VEREINIGTEN STAATEN VON AMERIKA

gegen

KRAUCH und andere (Fall VI)

SCHLUSS-BRIEF DER ANKLAGENBEHÖRDE

Teil V

Beurteilung gewisser Aspekte der Verteidigung,

Nuernberg, Deutschland

1. Juni 1948



TEIL V

INHALTSVERZEICHNIS

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(Seite 1 des Originals)

Teil V

Bewertung gewisser Aspekte der  
Verteidigung

A. Einleitung.

(1) In diesem Teil des Briefes haben wir die Absicht einige der von der Verteidigung vorgebrachten Gründe zu behandeln, die dem ganzen Fall gemeinsam sind. In diesem Teil wollen wir uns nicht mit Verteidigungsgründen befassen, die von einem bestimmten Angeklagten vorgebracht wurden und die nicht allgemeiner Natur sind, da wir diese in Teil VI behandeln werden, der der Handlungsweise der einzelnen Angeklagten gewidmet ist.

(2) Ausser den allgemeinen hier besprochenen Verteidigungsgründen wollen wir auch allgemein die Frage der Glaubwürdigkeit des von der Verteidigung vorgebrachten Materials betrachten und vor allem den Unterschied des von der Anklage vorgelegten Beweismaterials zu dem von der Verteidigung eingebrachten darstellen ebenso wie die Frage, welches Gewicht dieses Beweismaterial zugemessen ist.

(3) Die hauptsächlichsten von der Verteidigung vorgebrachten Gründe sind die folgenden:

(a) Während der ganzen Zeitspanne von 1933 bis 1945 hatten die Angeklagten keine Aktionsfreiheit und handelten nicht nach ihrem eigenen Willen, im Gegenteil sie waren der Gewalt oder Gewaltdrohung unterworfen, die bis zu Druck und Zwang gesteigert wurde. Dieser Verteidigungsgrundsatz betrifft alle Hauptpunkte der Anklageschrift, wie Verbrechen gegen den Frieden, Kriegsverbrechen, Verbrechen gegen die Menschlichkeit und Verschwörung zur Begehung



von Verbrechen gegen den Frieden.

b) Bezueglich der Verbrechen gegen den Frieden unterstellte die allgemeine Verteidigung dass die ungeheure Erweiterung der I.G. Betriebe zwischen 1933 und 1945 und die sich daraus ergebende Produktionssteigerung von kriegswichtigen Guetern nur die normale Entwicklung

(Seite 2 des Originals)

ihres Friedensgeschäftes gewesen sei und in keiner Weise in Beziehung zur deutschen Wiederaufrüstung stand. Andererseits war aber auch von der Verteidigung angegeben worden, dass wenn diese ungeheure Erweiterung der Fabriken und die Steigerung der Produktion mit dem deutschen Rüstungsprogramm tatsächlich in Zusammenhang stand, die Angeklagten sich deshalb an dieser Wiederaufrüstung beteiligten, in der Annahme es sei fuer einen Verteidigungskrieg und sie haetten nicht geglaubt, dass sie an den Vorbereitungen fuer einen Angriffskrieg teilgenommen haetten.

c) Bezueglich der Frage der Glaubwuerdigkeit werden wir die von der Verteidigung vorgebrachten Gruende besprechen, die die Angeklagten fuer richtig befanden als "window dressing" hinstellen.

### B. Der Verteidigungsgrundsatz des Zwanges.

(4) Wir werden diese Grundlage der Verteidigung von zwei Seiten aus beleuchten; erstens von der tatsächlichen aus und dann von der Rechtsgrundlage aus. Was die Tatsachen anbetrifft, so ergeben die Akten, dass die Angeklagten freiwillig die in den Teilen II, III und IV dieses Briefs besprochenen Handlungen unternahmen und dass sie nicht nur keinem Zwang unterlagen, sondern sogar in den besprochenen Gebieten die Initiative ergriffen.

#### 1. Die Tatsachen.

(5) Wie aus dem Beweismaterial hervorgeht, war die I.G. zur Zeit als Hitler die Zuegel der Regierung an sich riss ein in Deutschland und sogar auf der ganzen Welt bedeutender Machtfaktor. Schon eine Generation vor dem Auftreten der Nazis war die I.G. eine wesentliche Macht, ein "Staat im Staate". Fuer den Aufbau und die Unterhaltung der Kriegsmaschine der Nationalsozialisten war die I.G. ein unentbehrlicher Faktor; ihr weltumspannendes Reich war fuer die Durchfuehrung des Wirtschaftskrieges, der Aktionen der Fuenften Kolonne und fuer die Propaganda- und Spionagetatigkeit auf der ganzen Welt unentbehrlich - ebenso wie es auch benutzt wurde, um



(Seite 3 des Originals)

der nationalsozialistischen Regierung Devisen zu beschaffen; weiterhin waren die internationalen Verbindungen der I.G. mit dem Ausland fuer die nationalsozialistische Regierung eine unentbehrliche Waffe in ihren Bestrebungen die wirtschaftliche Staerke der Laender zu schwachen, welche das Dritte Reich als potentielle Hindernisse fuer seine Angriffspolitik betrachtete. Um mit FUNK zu sprechen "Ohne die deutsche I.G. und ihre Leistungen waere es niemals moeglich gewesen, diesen Krieg zu fuehren."

(6) Die Unterstellung allein, dass diejenigen, die diesen "Staat in Staate" leiteten, gezwungen wurden, Hitler 1933 zur Macht zu verhelfen und ihm zu helfen, seine Stellung in Deutschland zu festigen, und dass sie gezwungen wurden, ihm und sein Programm waehrend der naechsten zwölf Jahre zu unterstuetzen, mit dem er die Freiheit in Deutschland vernichtete und versuchte sie auch in der uebrigen Welt zu vernichten, diese Unterstellung allein traegt schon ihre Antwort in sich. Die Tatsache dass die I.G. und ihre Fuehrer persoenlich bessere Stellungen erlangten und an Prestige gewannen, dass ihre Vorbereitung Deutschlands zum Kriege ihnen ungeheuerer Gewinne einbrachte und dass sie ihren Machtbereich im Ausland durch die gewaltsame Uebnahme von fremdem Eigentum erweiterten, - und dass sie imstande waren all diese Gewinne zu machen und ihren Machtbereich zu erweitern; dadurch dass sie die besiegten Voelker versklavten - das ist ein Teil dieser Antwort.

(7) Sogar wenn wir dem Wort der Angeklagten Glauben schenken wuerden, mit dem sie erklaren wollen warum sie sich der Hitler-regierung anschrieben und dem Programm der Nationalsozialisten ihre Unterstuetzung gewahrten, haben wir immer noch keinen Tatbestand des Zwangs oder Druckes. Die Verteidigung behauptet, dass die I.G. deshalb diese Unterstuetzung gewahrte und ihre Vertreter in verantwortliche Regierungsstellen setzte, um dadurch die Politik der Regierung nach ihren eigenen Wuenschen lenken zu koennen statt das Feld den Extremisten der Nationalsozialistischen Partei zu ueberlassen. Damit erklart die Verteidigung z.B. warum KRAUCH in die Regierung eintrat und eine Stelle bekleidete, von der aus er wenigstens die Geschaeftsinteressen der I.G. waehren konnte. Tatsaechlich



hat er aber durch die Kontrolle, die er in seiner Schlusssstellung in der deutschen Kriegswirtschaft ausübte, mehr getan, als nur die Interessen der I.G. wahrgenommen. Er sorgte dafür, dass die I.G. einen beträchtlichen Teil des Geschäftes der deutschen Mobilisierung für den Krieg erhielt. Die andere Erklärung für den Eintritt der I.G. in die Regierung ist, dass sie ihre eigene Vormachtstellung in der deutschen Wirtschaft beibehalten und irgendwelche Konkurrenten verhindern wollte durch bessere Beziehungen zur Partei oder zur SS oder ähnlichen Verbänden in ihr ureigenstes Gebiet einzudringen. Die Dokumente die zum Beweis vorgelegt wurden, dass dies die Motive der I.G. für ihre Handlungsweise waren, enthalten keinerlei Hinweise auf irgend welchen Zwang; im Gegenteil, sie bezeugen ein wohlüberlegtes Bestreben seitens der I.G. ihre Stellung in der deutschen industriellen Wirtschaft nicht nur beizubehalten, sondern tatsächlich ihre Machtstellung noch zu vergrößern.

(8) KRAUCH machte Aussagen über die Stellung der I.G. in Verbindung mit ihrer Teilnahme an Regierungshandlungen. Er bezeugte das Folgende:

"Es war schon immer die Tradition der I.G., zu der jeweiligen deutschen Regierung gewisse Beziehungen zu unterhalten. Das geht auch daraus hervor, dass verschiedene Aufsichtsratsmitglieder der I.G. Ministerposten in verschiedenen Regierungen bekleideten. \*\*\*\* Die I.G. war ein grosser Faktor in der deutschen Handelspolitik. Ein Staatsmann hat das Wort geprägt "ohne I.G. und ohne deutsche Kohlen kann ich keine Aussenpolitik betreiben". \*\*\*\*

Die Regierung wollte in die Handelsgeschäfte der I.G. Einsicht haben. Bei den Beziehungen die die I.G. zu den Handelsfaktoren des Auslands hatte und umgekehrt, war auch die I.G. daran interessiert wohin die Politik der Regierung in Bezug auf Handelsverträge und ähnliche Abmachungen ging."

(9) Die I.G. war der Ansicht, dass sie Hitler unterstützen musste, um ein Chaos zu verhindern, wie es die Führer der I.G. 1933 folgendermassen beschrieben:

"Jetzt gerade ist es eine Frage des Faschismus und Bolschewismus, und die Industrie muss die gegenwärtige Regierung unterstützen, um weiteres Chaos abzuwenden. Hitler's Herrschaft befragte anfangs nicht die Industrieführer, aber während der jüngsten Wochen zeigte er seine Beharrlichkeit, indem er das radikalere Element der Partei in seine Schranken wies und indem er die Industrieführer sich zu Rate zog."

Dr. BOSCH war in Berlin in unmittelbarer Verbindung mit der Regierung gewesen und tatsaechlich verbringt er praktisch seine ganze Zeit zwischen seiner Wohnung in Heidelberg und den Regierungstellen in Berlin, hat also wenig, wenn ueberhaupt, Zeit fuer die Angelegenheiten der I.G. Farbenindustrie." (PE 57).

(10) KEPPLER, Hitler's Wirtschaftsberater berichtet von dem Eifer, mit dem die I.G. Hitler zu raten bereit war. Er sagte folgendes aus:

"Kurz nach der Machtuebernahme durch die Nazis statteten die Leiter der vielen leitenden Unternehmungen Hitler einen Anstandsbesuch ab. Von I.G. Farben kam BOSCH, der damalige Vorsitzende des Vorstandes, der einer der leitenden Industriellen Deutschlands war. Diese Leute wurden weder von mir, noch offensichtlich von sonst jemandem von Hitlers Kreis eingeladen, sondern sie haben sich ganz im Gegenteil geradezu gedrängt, Hitler besuchen zu duerfen." (PE 59).

(11) Was die Frage der finanziellen Unterstuetzung fuer Hitler anbetrifft, gesehen vom Standpunkt des auf dem Zwangsfaktor aufgebauten Verteidigung aus, so genuegt es hier anzudeuten, dass in keiner Weise behauptet wurde, der Beitrag von 400,000 RM den die I.G. leistete um im Jahre 1933 Hitler zum Wahlsieg zu verhelfen, sei nicht freiwillig gewesen. Es wurde dagegen behauptet, die weiteren Beitraege der I.G. fuer die nationalsozialistischen Organisationen seien eine Art Steuer und daher unfreiwillig gewesen. Im Juli 1933 teilten Ter MEER und Von SCHNITZLER den Vertretern von Du PONT mit, in welcher Weise das gehandhabt wurde:

"Herr KRUPP habe einen Plan aufgestellt, nach dem die Industrie zu den Fonds der Parteiorganisation beitragen koenne, und tatsaechlich wird jede Industrie dazu aufgefordert, 1/2% des Jahreslohns und der Gehaltsliste der Nazi-Organisation zu zahlen. Fuer die IG Farbenindustrie betraegt der Jahresbeitrag etwa 1,000,000 RM" (PE 57, Seite 9).

(12) Nicht nur hat die Industrie die Idee der finanziellen Beitraege auf diese Weise aufgefasst, wir sehen auch dass der Angeklagte SCHMITZ (zusammen mit KRUPP) Mitglied des Industriekomitees der Adolf Hitler-Spende war und dieser Ausschuss setzte die Hoehe der Beitraege fest, welche die Industrie den nationalsozialistischen Organisationen zu zahlen hatte (PE 2305).



(13) Im Anschluss an diese, angeblich von Bosch stammende Idee, dass die Industrie sich an der Regierung beteiligen solle um die Extremisten der Nazi-Partei in Schach zu halten, sagte KRAUCH aus, dass er deshalb Vorstandsmitglied der Drabag wurde (jener Gesellschaft, die speziell dazu gegründet worden war, um die Methoden der I.G. zur Herstellung von synthetischem Benzin auszuwerten), weil SCHACHT ihm gesagt hatte, diese Gesellschaft "werde von der Partei sehr stark betrieben und die Partei würde sich bemühen "in die Wirtschaftsführung einzudringen; um dies zu verhindern und die Selbstinitiative der Wirtschaft zu erhalten, bat er mich, um gewissermaßen ein Gegengewicht gegenüber den Parteibestrebungen zu schaffen, als Fachmann der Wirtschaft in den Vorstand einzutreten." (Tr. 5071 ; 5070).

(14) Als im Jahre 1936 GOERING sein Amt fuer Rohstoffe und Devisen einrichtete, trat Oberst LOEB an KRAUCH heran und forderte ihn auf, dem Stabe Goerings beizutreten. KRAUCH besprach das mit SCHMITZ und BOSCH (Tr. 5068) und KRAUCH sagte folgendermassen aus:

"BOSCH hatte ein Interesse daran, dass an Stellen, die irgendwie mit der Wirtschaft zu tun hatten, nicht Dilettanten und Theoretiker aus der Partei hinkamen, sondern Leute, die etwas von der Wirtschaft und ihren Bestrebungen verstanden." (Tr. 5091).

BOSCH riet KRAUCH, in GOERING's Stab einzutreten (5090) und

"Seine Argumente leuchteten mir absolut ein. Ich fuhr nach Berlin, um LOEB eine Zusage zu geben." (Tr. 5092).

(15) Als beim Vierjahresplan eine verwaltungstechnische Aenderung nach der anderen vorgenommen wurde, besprach KRAUCH diese mit BOSCH und BOSCH "riet mir zu, weiter in dem Amt zu bleiben und seine Ueberleitung zu bewerkstelligen." (Tr. 5097).



(Seite 6 des Originals Fortsetzung)

(16) Als KRAUCH im Juni 1938 erfuhr, dass die Zahlen bezueglich der Produktion fuer den Mobilisierungsplan falsch waren, sprach er wieder mit BOSCH draeuher und BOSCH teilte ihm mit, General von BRAUCHITSCH und Generaloberst BECK haetten ihm (BOSCH) gesagt, sie fuerchteten beide, dass die Fehler, die in der deutschen Aussenpolitik gemacht wuerden,

(Seite 7 des Originals)

zu einem Kriege fuhren konnten, und dass die Ruestung in keiner Weise so weit sei, dass ein Krieg fuer sie tragbar waere. (Tr. 5108). Mit dieser Information ging KRAUCH zu GOERING und uebernahm es freiwillig einen neuen Produktionsplan aufzustellen, der die Fehler beseitigen wuerde, sodass das Fortschreiten der Aufruestung mehr der Aussenpolitik angepasst wuerde, oder, um es anders auszudruecken, die Aussenpolitik musste dem "neuen Schnellprogramm" von KRAUCH angepasst werden. KRAUCH's eigenes Zeugnis zeigt keinerlei Anzeichen, dass bei dieser Gelegenheit irgend ein Druck oder Zwang ausgeuebt wurde.

(17) Im Zusammenhang mit der Beteiligung der I.G. am Vierjahresplan haben wir bereits die Hintergruende angedeutet, die die I.G. veranlassten, KRAUCH in diese Stellung zu bringen. SCHACHT, der sich mit GOERING nicht darueber einigen konnte, bis zu welchem Grade die Totalumstellung der Wirtschaft auf Kriegszwecke durchgefuehrt werden sollte, "warnte oeffters die I.G., d.h. SCHNITZ wie auch von SCHNITZLER, sich nicht an den Projekten des Vierjahresplanes zu beteiligen" (PE 700). Das in Teil II dieses Briefes besprochene Beweismaterial enthaelt keinerlei Anhaltspunkte, dass irgend ein Zwang auf die I.G. ausgeuebt wurde bezueglich des Ausbaus ihrer Produktion und ihrer Betriebe in Verbindung mit der Herstellung von synthetischen Gasen, synthetischem Gummi und den anderen bereits besprochenen Gebieten.

(18) Die Eisen- und Stahlindustrie lehnte es ab, sich an gewissen Projekten des Vierjahresplanes zu beteiligen, und der auf sie ausgeuebte Druck bestand in der Gruendung der Hermann GOERING-Werke von staatswegen. Tor MEER behandelte diese Seite der Angelegenheit in seiner Zeugenaussage (Tr. 7170):

(Seite 7 des Originals Fortsetzung)

"Es ist bekannt, dass die Eisen- und Stahlindustrie von Ruhr und Rhein nicht bereit war, die später durch die Hermann GOERING-Werke vollzogene Neugründung einer Eisen- und Stahlindustrie in Mitteldeutschland mitzumachen. Das Geschäft schien ihnen damals zu schlecht zu sein, denn es handelte sich ja darum, eine ziemlich grosse neue Eisenkapazität zu schaffen und zu höheren Preisen, als man an der Ruhr aus schwedischen Erzen Eisen gewinnen konnte, und es mochten ja wieder einmal Zeiten kommen, da diese neuen Werke wieder keine Beschäftigung finden würden, und da sie teurer produzierten, als die Industrie an der Ruhr, dann möglicherweise zum Stillstand kommen würden."



(Seite 8 des Originals)

und in dieses riskante Geschäft wollten sich die Maschinenindustriellen nicht hereinbegeben und dadurch sind die Hermann-GÖRING-Werke als Staatswerke gegründet worden."

Die IG liessen sich in dieses riskante Geschäft ein; die "I.G. hatte sogar das erste Optionsrecht bezüglich der Projekte des Vierjahresplanes" (Tr. 9329-934).

(19) Auch auf dem Gebiet von Explosionsstoffen und chemischen Kampfmitteln bestand fuer die I.G. keinerlei Zwang etwas zu unternehmen. Dr. ZAHN, der Leiter des Heereswaffenamtes, der fuer die Grundprodukte fuer Pulver, Explosionsmittel und chemische Kampfmittel, vor allem Diglycol, Stabilisatoren, Hexogen, Azetophenen, Omogonsalz, Losantine etc. verantwortlich war. (Tr. 11618/19 sagte folgendes aus:

A. "Ich soll mich dazu aeuussern, ob wir Mittel hatten, die Firma zu zwingen in damaliger Zeit, das zu tun, was wir wollten?

F. Jawohl.

A. Das ist Ihre Frage?

F. Das ist meine Frage.

A. Ich kann mir nicht vorstellen, welches Mittel wir knotten anwenden sollen. Ich weiss auch nicht ob irgendwelche juristischen Grundlagen da waren oder verwaltungsmässige Grundlagen, die es gestatten, auf diese Firmen in dieser Hinsicht einen Zwang auszuueben. Ob sie diese Anlagen herstellen mussten oder nicht, kann ich nicht beurteilen.

F. Haben Sie persönlich irgendeine Firma vor dem 1. September 1939 gezwungen, irgendwelche Anlagen einzurichten, um ein spezielles Produkt herzustellen?

A. Wir haben die Leute nie gezwungen. Es wurde ihnen in verbindlicher Form gesagt: "Das und das brauchen wir, bitte, koennt ihr uns nicht helfen ...."

(20) AMEROS gab zu, dass, als die militaerischen Behoerden die I.G. veranlassen wollten, Giftgase zu produzieren, diese sich weigerten und sie nicht dazu gezwungen wurden. Er sagte in Zeugenstand aus: (Tr.

F. Nun, und warum wurde diese Anfrage abgelehnt?

A. Weisung der I.G. Farben. Wir stellen keine Gase her.

F. Wissen Sie, warum dasin den Vorstandssitzungen erörtert wurde?

A. Das kann ich nicht sagen.

F. War das OKH damit zufrieden?

A. Sie mussten es wohl gewesen sein, weil wir in Friedenszeit nicht gezwungen werden konnten."

921) In Oktober 1941 schrieb der Angeklagte KUEHNE dem Angeklagten SCHMITZ und berichtete ihm ueber eine oeffentliche Rede die FUNK (Minister fuer Wirtschaft und Bevollnaechtigter fuer die Kriegswirtschaft), in Anwesenheit von hohen Regierungsbeamten und Industriellen gehalten hatte, und in der es hiess, dass:

"(ich) ausdruuecklich feststellen (muss), ohne die deutsche I.G. und ihre Leistungen haette dieser Krieg nicht gefuehrt werden koennen."

In seinem Bericht zu SCHMITZ sagt KUEHNE:

"Sie koennen sich denken, dass ich Herrn FUNK darueber sehr erfreut, in Namen der ganzen I.G., meinen Dank aussprach." (PE 2064)

(22) Bezueglich der Betaeetigung der I.G. auf dem Gebiet der Ausbeutung und Pluenderung der chemischen Industrien Europas beziehen wir uns auf die Diskussion des Beweismaterials in Teil III dieses Briefes. Auf dem Gebiet der Ausbeutung ist der hervorsteckende Faktor die Initiative der I.G. Immer wieder kommt dieses Thema in den Dokumenten vor, dass die I.G. keinen neuen Konkurrenten hereinlassen duerfe und selbst die "Fuehrung" in den Gebieten uebernehmen muesse die ihr "aus geschichtlichen Gruenden (PE s 1247, 2063) oder wegen ihrer Pioniertaeetigkeit auf technischen Gebiet oder "ihrer finanziellen Opfer" (PE 586) oder auf Grund der dem Reich durch die I.G. geleisteten Dienste" (PE 15) ausschliesslich gebuehre.

(23) Als die deutschen Behoerden die I.G. aufforderten, eine Fabrik in Frankreich zu uebernehmen und die I.G. aus "Geschaefts"-Gruenden das nicht tun wollte, teilte sie einfach den deutschen Behoerden mit, dass sie kein Interesse daran haette und damit war die Sache erledigt. (siehe WURSTER Zeugnis Tr. 10967).

(24) In Zusammenhang mit der Zwangsarbeiterpolitik der I.G. zeigen die in Teil IV dieses Briefs im einzelnen besprochenen Tatsachen ebenfalls, dass Farben hier die Initiative in besonderer Masse ergriff. AMEROS sagte aus: "Die IG finanzierte die I.G. in Auschwitz da sie niemand anderen an das Bunaverfahren heranlassen wollte." (PE 1419).

(25) Im April 1941 teilte AMEROS brieflich Ter MEER ueber die IG in Auschwitz mit: "Unsere neue Freundschaft mit der SS erweist sich als neusserst gewinnbringend." (PE 1431). Einen Monat fruher, am 25. Februar 1941 schrieb KRAUCH dem Angeklagten AMEROS (PE 2199):

"Auf meine Bitte hin hat der Herr Reichsmarschall vor wenigen Tagen durch besondere Erlasse an die beteiligten Obersten Reichsbehoerden die Dringlichkeit noch einmal ganz besonders betont (Buna in Auschwitz) und er richtet dauernd sein besonderes Augenmerk auf den Fortschritt der Ihnen uebertragenen Aufgaben der wirtschaflichen Produktion. Der Herr Reichsmarschall hat in diesen Erlassen den beteiligten Dienststellen die ungehobende Deckung ihres Facharbeiten- und Arbeiterbedarfes selbst auf Kosten anderer kriegswirtschaftlichen wichtiger Bauvorhaben oder Betriebe zur Pflicht gemacht." (Im Original keine Unterstreichungen!)

Die Angeklagten Ter MEER und DIERCKFELD bekamen Durchschlaege dieses Briefes. Und trotz der Tatsache, dass die IG nach Polen, wo Auschwitz lag, ging, um dort eine Bunaabrik zu bauen, trotz der Tatsache, dass KRAUCH zugibt, dass er GOERING dazu brachte HIMMLER den Befehl zu geben, der I.G. Konzentrationalagerhaeftlinge (in Polen) zum Aufbau der Bunaabrik der I.G. zuzuweisen, wird immer noch behauptet, dass man dazu gezwungen worden sei, Konzentrationalagerhaeftlinge zu beschaeftigen. Und von den Zwangscharakter dieser Handlungsweise bekommt man schliesslich noch einen Begriff durch den Brief KRAUCH's an HIMMLER, den er im Juli 1943 schrieb, und in dem es heisst:

"Ich habe es besonders begruesst, dass Sie ..... angedeutet haben, evtl. den Ausbau eines weiteren Synthesowerkes ..... aehnlich wie in Auschwitz, durch die Zurverfuegungstellung von Insassen aus Ihren Lagern gegebenenfalls zu unterstuetzen." (PE 1526)



Eine eingehendere Abrechnung des Beweismaterials zu diesem Punkte befindet sich in Teil IV dieses Briefes.

## 2. Der Rechtsstandpunkt

(26) Wie wir bereits angedeutet haben, hat die Verteidigung fuer ihre Zwangstheorie keine Tatsachen als Basis; aber nehmen wir einmal an, dass Beweismaterial vorhanden ist, auf Grund dessen solch eine Verteidigung aufgebaut werden koennte, dann ergibt sich die Folgerung, dass diese Verteidigung juristisch unzureichend ist. In unserem vorlaeufigen Anklagebrief, Teil I, Seite 11-12, und 104-106 haben wir die rechtlichen Grundlagen dieser Verteidigungsmethode besprochen, die manchmal unter der Bezeichnung "Zwang" oder "Hoeherer Befehl" geht. Seitdem der vorbereitende Anklagebrief geschrieben wurde, sind die Rechtsgrundlagen einer Verteidigung, die sich auf hoeheren Befehl stuetzt, ausfuehrlich in dem Urteil des Militaergerichtshofes No. 2 in Fall No. 9 (Vereinigte Staaten gegen Otto OHLENDORF und andere) behandelt worden. Fuer die Behandlung dieses Verteidigungsstandpunktes (Urteil, Fall No. 9 Tr. 6726-6753) stellte das Gericht als "sichere Richtlinien bei der Anwendung die Charakteristika" des Zwanges die folgenden Fragen auf: "gab es einen physischen Zwang gegen den kein Widerstand moeglich war? Wurde die Handlung willentlich unternommen?" Das Gericht stellte fest "Der Untergebene ist nur verpflichtet den gesetzlich zulassigen Befehl seines Vorgesetzten zu befolgen, und wenn er einen verbrecherischen Befehl uebernimmt und ihn in eigener boeswilliger Absicht ausfuehrt, so kann er in seiner Verteidigung nicht hoeheren Befehl als Milderungsgrund anfuehren."

(27) Wenn ein Soldat kein hoeherer Befehl ins Feld fuehren kann, ausser wenn er beweisen kann, dass er unter unwiderstehlichen, physischem Zwange stand, um wieviel weniger koennen denn die Leute in den Stellungen der Angeklagten sich auf einen solchen Verteidigungsgrund berufen. Wenn ein Soldat, der auf Grund von im Kampf gegebenen Befehlen handelt, nicht hoeheren Befehl als Verteidigungsgrund angeben kann, wie kann dann eine Person, die nicht Soldat ist, und die nicht in der Hitze des Gefechtes steht,

(Seite 11 des Originals Fortsetzung)

und deren Handlungen sich ueber einen Zeitraum von Jahren hinzieht,  
hoehere Befehle ins Feld fuehren mit der Begruendung, dass er bei  
Nicht-

befolgung des Befehls erschossen worden waere? Wie kann es ein Mann sich auf hoehere Befehle berufen, wenn er im besten Fall anfuehren kann, dass wenn er nichts getan haette, was er tatsaechlich getan hat, es fuer seine Firma einen geschaeftlichen Verlust bedeutet haette und eine Verminderung seines personlichen Prestiges und seiner Stellung?

(28) Die Verteidigung hat den Grundsatz des Zwanges vor allem in Verbindung mit Anklagepunkt III hervorgehoben der sich auf die Verwendung und den Missbrauch von Zwangsarbeit bezieht. Verteidiger SCHNEIDER stellte in seiner Eroeffnungsrede die Sache folgendermassen dar:

"Mit der Dauer des Krieges und den wachsenden Anspruechen der Truppe genuegten die verfuegbaren Arbeitskraefte Deutschlands in keiner Weise den Beduerfnissen von Industrie und Landwirtschaft. Die Regierung entschloss sich deshalb, diesen Bedarf aus der Bevoolkerung der durch deutsche Truppen besetzten Laender zu decken. Dies geschah in der Hauptsache meist im Wege der Freiwilligkeit und spaeter durch die sogenannte Dienstverpflichtung. In allen Einzelheiten wurde ueberall die Erfassung und Behandlung der Fremdarbeiter durch gesetzliche und behoerdliche Anordnungen oder Staatsvertraege geregelt.

"Angesichts dieses umfassenden Gesamtprogramms .... kam der normale deutsche Unternehmer in allen Teilen der Wirtschaft gar nicht auf den Gedanken, in der Beschaeftigung der Fremdarbeiter ..... wenn er ..... gut fuer sie sorgte, etwas Rechtswidriges oder gar Verbrecherisches oder Unmenschliches zu sehen. "In diesem modernen, sogenannten "totalen" Wirtschaftskrieg (war) .... die Erzeugung - gleichgueltig welcher Art - insbesondere fuer den Leiter eines grossen industriellen ..... Betriebes ... immer von kriegsentscheidender Bedeutung."

"Deshalb kann die Verantwortlichkeit fuer ein solches politisches Programm wie die Zwangsarbeit nur die politisch fuehrenden Personen treffen ...." (Tr. 4800-01, keine Unterstreichung im Original)

(29) Abgesehen von der juristischen Unzulaenglichkeit dieses Argumentes wird das Beweismaterial voellig aussser Acht gelassen, aus dem die eigene Initiative der I.G. bei der Beschaffung von

Zwangsarbeitern und Konzentrationslagerinsassen hervorgeht, obwohl es bekannt war, dass die Fremdarbeiter und vor allem natuerlich die Insassen der Konzentrationslager Zwangsarbeiter waren. Es besteht kein Zweifel, dass "moralisch eine Wahl bestand" ob solche Zwangsarbeit verwendet werden sollte oder nicht.



(Seite 13 des Originals)

(IMT, Band I, Seite 224) Der Vorschlag, dass die Verantwortlichkeit fuer die Verbrechen nur die sogenannten politischen Fuehrer Deutschlands trifft, obwohl die Angeklagten wissentlich an diesem verbrecherischen Programm beteiligt waren, wuerde ein Zurueckgreifen auf die alte Streitfrage sein, die bereits das IMT ablehnte, naemlich, dass der Einzelne nicht voelkerrechtlich, sondern nur staatsrechtlich fuer Straftaten verantwortlich gemacht werden kann. Das heute geltende Voelkerrecht macht den Einzelnen persoenlich fuer die Verletzung des Voelkerrechtes verantwortlich.

C. DER VERTEIDIGUNGSGRUNDSATZ, DASS DIE WIEDERAUF-  
RUESTUNG DEM "VERTEIDIGUNGSKRIEG" galt.

(30) Im Zusammenhang mit diesem Grundsatz der Verteidigung wurde behauptet, dass die Steigerung der Produktion und die Erweiterung der Betriebe der IG von 1933 bis 1939 tatsaechlich nichts mit der Wiederaufruestung Deutschlands zu tun hatte, sondern in Gegenteil die normale Entwicklung einer friedensmaessigen wirtschaftlichen Vergraessierung war. Die Behandlung des Beweismaterials in Teil II dieses Briefes machte es unserer Ansicht nach hinreichend klar, dass diese Behauptung keinerlei tatsaechliche Fundierung hat. Es ist aber interessant, festzustellen, dass einige der Angeklagten sogar zugegeben haben, dass sie an der Wiederaufruestung Deutschlands teilgenommen haben und ihre einzige Verteidigung war die Art der Wiederaufruestung, indem sie naemlich behaupteten, die Aufruestung diene dem Zweck der Verteidigung und nicht dem Angriff.

(31) Wir haben im Augenblick nicht vor, das Beweismaterial zu betrachten, aus dem hervorgeht, dass die Angeklagten wussten, dass sie einen Angriff vorbereiten halfen. Dieses Beweismaterial ist anderswo in diesem Brief behandelt. Siehe vor allem Teil I, II und VI. Wir wollen hier nur eroertern was die Verteidigung eigentlich meint, wenn sie von einem "Verteidigungskrieg" spricht.

(32) Vor allem die Verteidigung KRAUCH's betonte die Tatsache, dass am 1. September 1939 die tatsaechliche Produktion auf dem Gebiet der Aufruestung noch nicht die fuer einen langen Krieg noetigen Ausmasse erreicht hatte. 13.

(Seite 14 des Originals)

Wir wissen nicht ob dabei die neuen "Blitzkriegs"-Methoden der Deutschen eingerechnet waren oder nicht. Tatsache ist ganz einfach, dass die Angeklagten annahmen, Deutschland koennte zu geeigneten Zeitpunkten vereinzelte Angriffsaktionen unternehmen, die aber keinen allgemeinen Weltkrieg herbeifuehren wurden. Die Plaene gingen aber darauf hin, (wie es aus dem in Teil II behandelten Beweismaterial hervorgeht) eine Kampftruppe auszuruesten, die stark genug sein sollte, um, zur gegebenen Zeit gegen alle gegen sie aufgestellten Kraefte zu kaempfen. 1938 gab es einen Sofortplan fuer 63 Divisionen und einen Plan auf lange Sicht fuer 90 Divisionen. (Tr. 11587, 11452-11455, siehe Absatz 41 oben, Teil II). Auch wenn man annimmt, dass die mit diesen Plaenen uebereinstimmende Produktion nach dem Stande von 1. September 1939 nicht fuer einen "groesseren Krieg" ausreichte, so konnte man doch, wie Dr. ZAHN, der Chef des Heereswaffenamtes meinte, mit "den kleinen zu jener Zeit hergestellten Quantitaeten mit einem Feind wie Polen fertig werden, wenn auch nicht mit anderen." (Tr. 11608, siehe Absatz 48, Teil II, oben)

(33) Was sich die Angeklagten unter der Vorbereitung fuer einen Verteidigungskrieg vorstellten, zeigt sich auch in dem Bericht KRUACH's bezueglich der Mobilisierung von synthetischem und Treibool, in dem er mitteilt:

"Unser Wirtschaftsraum in Grossdeutschland (ist) zu klein fuer eine volle Befriedigung der wehrwirtschaftlichen Mineraloelansprueche und der neue, so erfolgreich eingeschlagene Weg nach Suedosteuropa zeigt uns die einzige und hoffnungsfreudige Moeglichkeit, durch Einbeziehung eines wehnmachtmassig zu sichernden Raumes die Mineraloelwirtschaft auf lange Jahre hinaus voellig zu sichern." (PE 455,40 Seite des Originals) (Keine Unterstreichungen im Original).

(34) Kurz gesagt, die Verteidigung betrachtet Vorbereitungen zur Anwendung von Gewalt gegen ein bestimmtes Land mit der Absicht, dem Volke dieses Landes das wegzunehmen, was ihm gehoert, nicht als einen Akt des Angriffes, wenn es dem Eroberer gelingt und er damit keine "internationalen Verwicklungen heraufbeschoert." (PE 2104)



Die Vorstellung, dass man nicht von einem Angriffskrieg sprechen koenne, wenn nur die grossen Laender Deutschland in Ruhe lassen wuerden, wenn immer es ueber ein kleines Land herzufallen beabsichtigte, kann aus KRAUCH's Besprechung mit GOERING im Juni 1939 ersehen werden. KRAUCH berichtete, dass er GOERING folgendes gesagt habe:

"wie ich auf die Idee kaeme, dass es zu einem Krieg kommen koenne. Ich habe ihm gesagt, die Zeiten seien ja sehr ernst. Ich habe etwas unter dem Eindruck des Bruches des Munchener Abkommens damals gestanden, unter dem Einfall Deutschlands in die Tschoslo Slowakei. Aus den auslaendischen Zeitungen hatte ich den Eindruck gewonnen, dass das Ausland irgendeine weitere politische Verwicklung absolut mit einem Krieg beantworten wuerde. "Stop the agressor" war der Ruf, den man damals aus allen Zeitungen entnehmen konnte. Die Gegner, mit denen Verwicklungen zu befuerchten waren, standen im Osten. GOERING hat mich damals gefragt: "Wenn wir zu einem Krieg mit Russland und Polen kommen, denken Sie, dass Frankreich und England auf der Seite dieser Voelker stehen wuerden?" Ich habe das (damals) bejaht. \*\*\*\* GOERING meinte, er haette vom Auswaertigen Amt andere Informationen. \*\*\*\* Und immer sagte er: "Sie brauchen keine Sorge vor einem Krieg zu haben, ein Krieg wird nicht zustandekommen."".  
(Tr. 5165/67)

(35) Die obige Aeusserung verglichen mit KRAUCH's Berichten (PE 609,455, siehe Paragraph 43-49, Teil II, oben) zeigt, dass, nachdem was sich die Verteidigung unter einem Angriffskrieg vorstellt, die Vorbereitung und das Planen einzelner Angriffsakte solange als "zum Zwecke der Verteidigung dienend" angesehen werden muss, als keine maechtigere Militaergewalt vorhanden ist, die den Angreifer in Schranken halten wuerde.

(36) Der Tenor dieser Verteidigungsmethode der Angeklagten ist, dass "Deutschland vom Bolschewismus ernstlich bedroht war" und dass die Wiederaufruestung Deutschlands "eine Massnahme fuer einen Verteidigungskrieg" war. Einige der Angeklagten haben auf die vom Osten drohende Gefahr hingewiesen, und andere auf die Gefahr der Invasion vom Osten sowohl wie auch vom Westen.

(37) Was dieses Argument anbelangt, so hat die Verteidigung keinerlei Beweismaterial vorgelegt, um ihre Behauptung zu stuetzen, dass einer der Angeklagten wirklich glaubte, Deutschland



drohe eine Invasion und daher ruestete Deutschland auf, um sich zu verteidigen. Kein Beweismaterial wurde vorgelegt, aus dem man erschen konnte, dass einer der Angeklagten irgend einen Grund gehabt haette anzunehmen, Deutschland koennte von einer anderen Nation angegriffen werden. Das Beweismaterial ergibt immer das Gegenteil. Wenn auch der Angeklagte KRAUCH sagte, dass GOERING und HITLER in ihren Reden vom Dezember 1936 (Tr. 5137) gleichzeitig die von Osten drohende Gefahr betont haetten, so bekundete der Angeklagte KRAUCH auch, dass der Westwall aus Gruenden der Verteidigung gebaut worden sei (Tr. 5114). Auf die Frage, wie er sich das erklære, dass der Westwall zur "Verteidigung" gebaut wurde, aber kein entsprechender Wall im Osten aufgebaut wurde, nannte der Angeklagte KRAUCH die Moeglichkeit eines Zweifrontenkrieges. (Tr. 5446-5447). Auf diese Weise bekannte der Angeklagte KRAUCH, was er und die anderen Angeklagten im Sinne hatten, wenn sie in ihren Zeugenaussagen von einem "Verteidigungskrieg" sprachen. Anscheinend ist die Einstellung des Angeklagten KRAUCH und der anderen Angeklagten, dass, wenn z.B. Grossbritannien und Frankreich Militaer nach Deutschland geschickt haetten, als Deutschland die Tschechoslowakei gewaltsam in Besitz nahm, der sich daraus entwickelnde Krieg fuer Deutschland ein "Verteidigungskrieg" gewesen waere. In den Augen der Angeklagten konnte jede von Deutschland unternommene Aktion zum Zwecke der Abwehr von "internationalen Komplikationen", die, durch die "Invasion der Tschechoslowakei heraufbeschwoeren worden waren", als eine Massnahme der Selbstverteidigung gerechtfertigt werden. Genau das haben die Angeklagten wieder und wieder zum Ausdruck gebracht und das ist der Kern ihres Begriffes von "Verteidigungskrieg" zum Unterschied von dem eines "Angriffskrieges".

D. "Window Dressing" und Glaubwuerdigkeit der Verteidigung.

(38) Die von der Anklagebehoerde vorgelegten Beweisstuecke sind in der Hauptsache Dokumente entweder Akten von verschiedenen Regierungsbehoerden, oder von der I.G., die aus der Zeit stammen, in der die entsprechenden Transaktionen vorgenommen worden waren.

In diesen Spezialfällen waren die Akten der I.G. zerstört und das Ausmass der Feteilung der I.G. mit Dokumenten unterbeut, die bei verschiedenen Regierungsbehörden vorfanden und beschlagnahmt wurden. Zum Beispiel wurde die ganze Geschichte des Verhältnisses der I.G. zur DMG durch Fowaise belagert, trotzdem alle zentralen Akten der DMG zerstört sind. Die Akten der I.G., die sich auf Angelegenheiten der Wehrmacht, auf Giftgas und verwandte Gebiete beziehen, sind vernichtet. (siehe PE 661 bis 664) und in manchen Fällen wurden die diesbezüglichen Lücken durch Fowaismaterial in der Form von eidesstattlichen Erklärungen von früheren Angestellten der I.G. oder von früheren Regierungsangestellten ergänzt.

(39) Das von der Verteidigung vorgelegte Fowaismaterial besteht dagegen zum grössten Teil aus eidesstattlichen Erklärungen von früheren Angestellten der I.G. und die meisten von ihnen waren nicht zur Verfügung, um einem Kreuzverhoer unterzogen zu werden. Wenn man das Ergebnis des Kreuzverhoers der Affianten der Verteidigung, die fuer ein Kreuzverhoer zur Verfügung standen als massgebend fuer diese Affianten der Verteidigung annehmen will, dann muss man unweigerlich zu der Schlussfolgerung kommen, dass diesen eidesstattlichen Erklärungen nicht viel Gewicht beizumessen ist. Bezuehlich des Fowaismaterials zu Anklagepunkt II siehe Teil III dieses Briefes. Das schlechteste Beispiel sind die von der Verteidigung zu Anklagepunkt III vorgelegten eidesstattlichen Erklärungen. Unter funfzehn Affidavits von Haeftlingen sind zwei Zeugnisse von Haeftlingen die keine Verbrecher waren und die einem Kreuzverhoer unterzogen werden konnten, und diese besagen in der Hauptsache das Gleiche, was die Zeugen der Anklage vorher bezeugt hatten. Daraufhin wurden die Affidavits der uebrigen acht Haeftlinge, die keine Verbrecher waren, von der Verteidigung zurueckgezogen, obwohl einige von ihnen bereits in Nürnberg angekommen waren. Die uebrigen funf waren verbestraft zum Teil wegen Mord, Diebstahl, Betrug und anderen schweren Verbrechen (in einem Fall war das Verbot eingeschlossen als Zeuge aufzutreten, oder eine eidesstattliche Erklärung abzugeben). Siehe Teil IV, Paragraphen 142 bis 157 einschliesslich dieses Briefes.)



(40) Viele Affidavits wurden vorgelegt, die von im Ausland lebenden Affianten abgegeben waren, bei denen die Verteidigung wusste, dass sie nicht zum Kreuzverhoer herangezogen werden koennen und doch brachte in manchen Faellen das Kreuzverhoer die "Faerbung" dieser Affidavits heraus. Ein besonders charakteristisches Beispiel war der Fall des Angeklagten GAJEWSKY, der ein Affidavit von einem gewissen OLLENDORF, einem fruheren Vorstandsmitglied, der jetzt in Argentinien wohnt, vorlegte. GAJEWSKI teilte mit, dass er immer in Konflikte mit der Gestapo und der SS geraten sei wegen seiner Ablehnung der Methoden der Naziartei und dass er mit verschiedenen Juden befreundet war, obwohl das fuer ihn sehr riskant war; er legte das Affidavit von Dr. OLLENDORF vor um damit zu bekraeftigen, dass er mit Juden befreundet war. Im Kreuzverhoer kam dann heraus, dass OLLENDORF von der Gestapo auf Befehl GAJEWSKI's verhaftet worden war, und dass dann GAJEWSKI ihm half wieder aus dem Konzentrationslager entlassen zu werden. GAJEWSKI hatte diesem Affianten nie gesagt, dass er es war, der an seiner Verhaftung schuld war und auch an seiner Verbringung in ein Konzentrationslager. (Tr. 8325-8327), trotzdem legte er OLLENDORF's Affidavit vor, um zu zeigen, dass GAJEWSKI ihm geholfen hatte aus dem Konzentrationslager herauszukommen.

(41) Ein weiteres Beispiel hat eine noch ernstere Rueckwirkung auf die Glaubwuerdigkeit der Verteidigung, naemlich die Tatsache, dass sie die Anschuldigung leugnen, dass die I.G. wesentliche Beitraege an HIMMLER und die SS zahlte um von der SS eine Vorrangshandlung in der Bereitstellung von Haefitlingen aus den Konzentrationslagern zu erhalten. Die Anklage stuetzte ihre Beschuldigung

auf Beweismaterial, aus dem hervorgeht, dass SCHMITZ und BULTFISCH in Dezember 1941 100,000 RM. durch den Himmlerkreis an HIMMLER abfuehrten. Jaehrliche Beitraege in gleicher Hoehe folgten. Da dies die erste groessere Zahlung der I.G. an die SS war, betrachtete die Anklagebehoerde sie als besonders wichtig, angesichts der Tatsache, dass gerade damals die Dunafabrik der I.G. in Auschwitz gebaut wurde.



Die Tatsache des Beitrages konnte nicht abgestritten werden. Aber der Zweck, fuer den der Beitrag bestimmt war, wurde abgestritten. Im Zeugenstand sagte KRAUCH, dass SCHMITZ ihm um Weihnachten 1941 herum gesagt habe, dass die SS an ihn wegen eines Beitrages herangetreten sei und SCHMITZ habe KRAUCH um seinen Rat gebeten, KRAUCH war dagegen (wie er sagte). Einige Wochen spaeter sagte KRAUCH, dass SCHMITZ ihm mitgeteilt habe, er habe der SS einen wesentlichen Beitrag geleistet, da (nach KRAUCH's Aussage) SCHMITZ ihm gesagt habe, durch diesen Beitrag wuerde es ihnen leichter fallen die Entlassung von Arthur WEINBERG aus einem Konzentrationslager zu erreichen. (Tr. 5158). Die Anklage konnte darlegen, dass dieser Grund falsch war. Arthur WEINBERG's Schwiegersohn, (Graf SPRETI) stellte der Verteidigung ein Affidavit zur Verfuegung, in dem er auseinandersetzte, dass die I.G., vor allem der Angeklagte SCHMITZ, dazu geholfen haetten oder jedenfalls bestrebt waren, WEINBERG's Entlassung zu erwirken und zu diesem Zweck sich bei HIMMLER ins Mittel gelegt haetten. Das Kreuzverhoer des Zeugen ergab, dass Arthur WEINBERG seiner Freiheit zum 1. Mal im Juni 1942 beraubt wurde, als er in ein Konzentrationslager gebracht wurde. (Tr. 13066). Arthur WEINBERG wurde also sechs Monate nach-  
dem SCHMITZ die 100,000 RM. an HIMMLER und die SS gezahlt hatte, in das Konzentrationslager gebracht. Und doch behauptet KRAUCH, der Grund, warum dieser Beitrag im Dezember 1941 an die SS gezahlt wurde, sei gewesen, WEINBERG dadurch zu helfen, aus dem Konzentrationslager herauszukommen. (Tr. 5159).

(42) Ausser der Tatsache, dass die von der Verteidigung vorgelegten Affidavits unzutreffend waren, wurde noch eine weitere, besondere Methode angewendet in Verbindung mit den von der Anklagebehoerde aus der betreffenden Zeit vorgelegten Dokumenten: der Verteidigungsgrund des "window dressing". Wo immer besonders bedeutsame Zugestaendnisse in einem Dokument der I.G. erschienen, hatte die Verteidigung die Entschuldigung, dass diese Formulierung als "window dressing" benutzt wurde, damit die Artelbeuten und die Regierungsbehoerden nicht denken sollten, dass die I.G. nicht voll dabei war.

(43) Wenn in Protokoll der Sitzung des Kaufmannischen Ausschusses der I.G. vom May 1938 steht, dass nach Erhalt eines Berichts ihres Agenten in der Tschechoslowakei ueber die politische Lage im Sudetenland, - die I.G. beschloss Sudetendeutsche anzustellen, um sie in der I.G. auszubilden, sodass spaeter Reserven an Angestellten fuer die Tschechoslowakei vorhanden waeren (PE 833, 1612), so wurde das folgendemassen erklart (Tr. 2022):

"\*\*\* als die Entwicklung in der Tschechoslowakei anfang, konnte jedermann sehen, dass HITLER plante, den deutschen Teil der Tschechoslowakei zurueckzuholen. \*\*\* Wir in der I.G. hatten auch einige Vorstellung davon und wir lasen in den Zeitungen von den Grausamkeiten gegen die Sudetendeutschen. \*\* Aber da HITLER das wusste, hatte er - Erfolg in seinen auslaendischen politischen Handlungen und es wurde ihm nicht Einhalt geboten \*\*\* als er Oesterreich besetzte wurde ihm nicht Einhalt geboten - damit er, ohne einen Krieg zu verursachen, Erfolg haben koennte, indem er den deutschen Teil der Tschechoslowakei gewann. Unsere Stellung in der I.G. war, dass, wenn sich dies wieder ereignen sollte, wir vorsichtiger sein sollten, als in Falle Oesterreich. Das heisst, wenn HITLER Erfolg haben sollte, wie er es - als er einen Teil der Tschechoslowakei auf friedliche Weise bekam, da sollte er nicht wieder die I.G. unvorbereitet finden. Das Ergebnis war, dass wir unseren Vertreter in der Tschechoslowakei baten, \*\*\*\* nicht weiter den nichtarischen oder juedischen Anwalt zu beschaeftigen\*\*\*, aber aus Gruenden des "window-dressing" haben wir einige sudetendeutsche Anwaelte eingestellt. Gleichermassen haben wir da fuer zu sorgen gehabt, dass nicht allzuvielle Tschechen von uns beschaeftigt wurden."

(44) Diese Version des "window-dressing", - die Sitzung des Kaufmannischen Ausschusses vom May 1938, fand zwei Monate nach der Sitzung vom 11 Maerz 1938 statt, in der der Ausschuss, im Hinblick auf die bevorstehende Invasion Oesterreichs die Frage erorterte, "ob wohl der kurze Vorstoss in die Tschechoslowakei mit all den internationalen Komplikationen, die dadurch heraufbeschwoeren wurden, nicht auch stattfinden wuerde." (PE 2014).

(45) GAJEWSKI sagte aus, dass 1938 eine neue Fabrik fuer Filme in Landsberg gebaut wurde und mit der Wiederaufraetzung nichts zu tun hatte. Ein an ihn adressierter Brief wurde ihm gezeigt (PE 1947) der sich auf einige laendliche Auesserungen bezog, die er im Reichswirtschaftsministerium gemacht hatte "ueber den Zweck und die Ziele, die Sie - 20 -



fuer den Bau der neuen Filmfabrik haben" und in den der folgende Grund als erster steht:

"die Beduerfnisse der Luftwaffe an Fliegerfilmen sollen entsprechend den Forderungen des Reichsluftfahrtministeriums ausser aus der Filmfabrik Wolfen aus einer zweiten Erzeugungstatätte der IG-Farben-Industrie befriedigt werden koennen."

Er sagte darueben (Tr. 8313):

Ich kann bei einer Behoerde, wenn ich eine Anlage fuer Farbfilm bauen will in der Zeit nicht mehr sagen, ich will hier Farbfilme bauen. \*\*\*\* Da hatten sie gesagt, da gebe ich dir kein Eisen dafuer. Wenn ich aber hingeho und sage, ich will auch Luftfilme machen, Fliegerfilme, dann kriego ich das sofort. \*\*\*\* Da haben wir denen etwas vorgemacht, damit ich die Genehmigung kriego. \*\*\*\*

F. Soll ich Sie dahin verstehen, dass Sie die Absicht hatten, die Wehrmacht, hinsichtlich des Zweckes dieser Fabrik zu betruegen?

A. Ja - betruegen ist ein falscher Ausdruck. Sagen Sie "window-dressing".

F. Waere das nicht Sabotage im deutschen Reich gewesen?

A. Wenn das Sabotage gewesen waere - man kann es so auslegen."

(46) AMEROS hatte ausgesagt, dass die Francolorfabriken deswegen weiter produzieren mussten, um dieFranzoesische Zivilwirtschaft zu unterstuetzen. Er wurde gefragt, ob nicht "der Hauptgrund, weswegen die Francolorfabriken weiter produzieren durften, der war, dass sie Erzeugnisse herstellten, die die Deutsche Armee benoetigte und seine Antwort darauf war: (Tr. 8033)

"\*\*\*\* Wir kommen nun auf ein Gebiet das damals wie man es nennt "window-dressing" war. Naetuerlich, wenn manche Dokumente erwacht sind, hatte die (deutsche) Armee ein direktes oder indirektes Interesse daran, sonst wuerde die Francolor nicht ein Gramm Kohle bekommen haben."

Als man ihm ein Dokument zeigte (PE 1907), in dem es hiess:

"In einer Besprechung, welche bei der Wirtschaftsabteilung des Militaerbefehlshabers mit Herren der I.G. Farbenindustrie stattfand, wurden seitens der I.G. Farbenindustrie neue Vorschlaege zur Verlagerung von direkten und indirekten Wehrmachtsbedarf in die Werke der Francolor gemacht."

und als ihm die Frage gestellt wurde, ob damit sein Gedaechnis aufgefrischt sei, dass er



bei der Konferenz dabei gewesen war und diese Vorschläge gemacht habe, antwortete er (Tr. 8064):

\*\*\* Direkt fuer die Beduerfnisse des Heeres. Das ist "window dressing".

(47) Als man ihm ein Dokument zeigte, in dem er die Militaer-behoerden gebeten hatte, Kohlen zur Verfuegung zu stellen, sodass die Francolorfabriken die fuer die deutsche Wehrmacht bestellten Waren herstellen koennten, antwortete er (Tr. 8066):

\*\*\* Ich benuechte mich Kohle fuer Francolor zu bekommen, damit diese weiterarbeiten koennten. Da die Kohlenverteilung der Militaervverwaltung unterstand musste ich immer wiederholen, zum Zweck des "window dressing"..

(48) Von ~~HEIDE~~ gab eine neue Version des "window dressing" anlaesslich seiner Erklaerung seiner Denkschrift vom Juni 1944, in dem er in einzelnen die militaerischen Vorteile, die die I.G. durch Standard Oil erfuhr, darlegte (PE 994.) (Tr. 6670). Er erklarte, dass er die Rolle der I.G. deswegen so herausgestrichen habe, damit sie guenstig dastehen wurden, in Falle sie einmal in einem Prozess vor dem Volksgerichtshof verwickelt wurden. (Tr. 6558-6560).

(49) HAEFLINGER wurde ueber einen Brief befragt, der von Von der HEIDE am 11. August 1939 (PE 2015) geschrieben worden war und in dem es hiess:

"Auf diese seine (HAEFLINGER) persoenliche Absicht hin hat jedoch der Vorstand unserer Firma mit Ruecksicht auf die Exportinteressen des Reiches und unseres Konzerns, und zwar insbesondere fuer etwaige Faelle kriegerischer Verwicklung an ihn die Bitte gerichtet, von dem Erwerb der deutschen Staatsangehoerigkeit abzusehen. Bei der Frage, ob Herr Direktor HAEFLINGER die deutsche Staatsangehoerigkeit erwerben oder aber weiter wie bisher Schweizer Staatsbuerger bleiben soll, ist u.E. von ganz wesentlicher Bedeutung die Erwaegung, dass der Genannte mit ausschliesslich Schweizer Staatsangehoerigkeit in einem Kriegsfaelle gerade als Fachmann auf dem Chemikalieng Gebiet den deutschen Interessen ausserordentlich gute Dienste leisten kann. Es wird damit die Moeglichkeit geboten, sowohl Fragen der Kriegs- und lebenswichtigen Importe auf Auslandsreisen ungehindert von einem deutsch-bewussten Fachmann verhandeln zu lassen, als auch durch ihn die Steuerung der dann noch moeglichen, unbedingt notwendigen Exporte zu sichern. (Keine Unterstreichung im Original).

HAEFLINGER sagte, dass KRUEGER "die Sache auf seine Weise geregelt habe," (Tr. 9243). (Siehe auch die weitere Diskussion ueber dieses Thema in

HAEFLINGER's eigenen Brief, Paragraph 9). Auf jeden Fall ist  
es klar, dass HAEFLINGER/<sup>seine</sup>SCHWEIZER Staatsangehörigkeit aus  
Gründen des "window-dressing" beibehielt, aber dieses "window-  
dressing" war nur fuer das Ausland.

(50) Von dieser Verteidigung des "window-dressing" aus  
gesehen sollen wir nun glauben, dass das unendliche Zeugnis  
der Angeklagten (auch ihre gemeinsamen "Korrekturen der Fehler"  
im Gefaengnis in Krasburg) und das ihrer Affianten, die selten  
durch Dokumente aus der Zeit gestuetzt werden, die "Wahrheit,  
die ganze Wahrheit und nichts als die Wahrheit sind".

Bescheinigung der Uebersetzung

Ich Thea von Seuffert bescheinige hiermit, dass ich eine  
vorschriftsmässige Uebersetzerin der deutschen und englischen  
Sprache bin und dass das obenstehende eine wahrheitsgetreue und  
richtige Uebersetzung des Dokumentes: Schlussbrief der Anklage-  
behörde Teil V, darstellt.

.....  
Thea von SEUFFERT  
R - 792979



MICROCOPY

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ROLL

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